

32.4/41

THE Current Indian Statutes

CUK- 1104850-4 LP2208
CONTAINING

Acts of the Central, Bengal, Bihar, Bombay and Sind Legislatures,
with Commentary, Statutes, concerning British India,

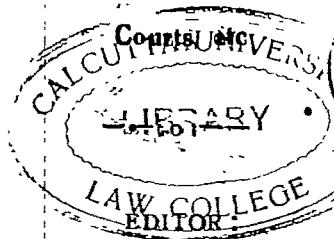
by the Imperial Parliament, Ordinances and

Important Notifications, Rules and

Regulations issued by Central, Bengal

and Bombay Governments and

Bombay and Calcutta High



ANAND MOHAN SURI, B. A., LL. B.,

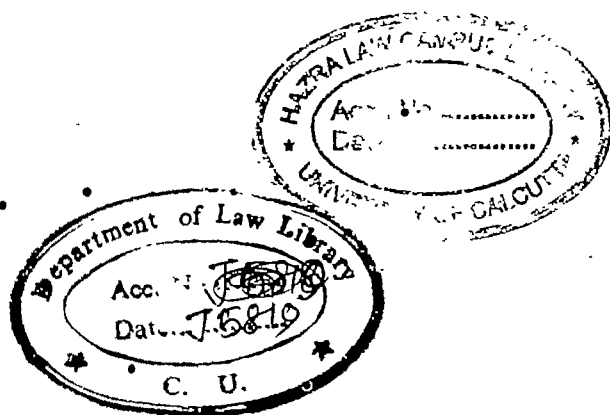
ADVOCATE, LAHORE HIGH COURT.

1841

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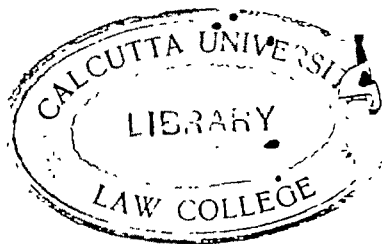
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Statutes,
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1940-41.

[Pages 1 to 6.]

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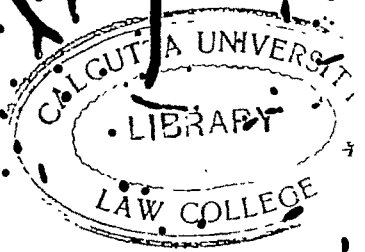
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STATUTES



Published in the "*Gazette of India*", Part I, dated the 1st March, 1941.
LEGISLATIVE DEPARTMENT.
New Delhi, the 1st March 1941.

No. 4-41-P.—The following Statute is published for general information:—

The Prolongation of Parliament Act, 1940. (3 & 4 Geo. 6, Ch. 53).

CHAPTER 53.

An Act to extend the duration of the present Parliament.

[6th November 1940.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. *Prolongation of present Parliament.*—Section seven of the Parliament Act, 1911, shall, in its application to the present Parliament have effect as if six years were substituted for five years.

2. *Short title.*—This Act may be cited as the Prolongation of Parliament Act, 1940.

Published in the "*Gazette of India*", Part I, dated the 19th April 1941.
LEGISLATIVE DEPARTMENT.
New Delhi, the 17th April 1941.

No. 4-I-41-P.—The following Statutes are republished for general information:—

The Expiring Laws Continuance Act, 1940. (4 & 5 Geo. 6 Ch. 2.)

CHAPTER 2.

An Act to continue certain expiring laws.

[19th December 1940.]

WHEREAS the Acts mentioned in the Schedule to this Act are, in so far as they are in force and are temporary in their duration, limited to expire on the thirty-first day of December nineteen hundred and forty:

And whereas it is expedient to provide for the continuance, as in this Act mentioned, of those Acts and of the enactments amending or affecting the same:

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. *Continuance of Acts in Schedule.*—(1) The Acts mentioned in Part I of the Schedule to this Act shall, to the extent specified in column three of that Part of that Schedule, be continued until the thirty-first day of December nineteen hundred and forty-one.

2 THE NAVAL AND MARINE FORCES (TEMPORARY [STATUTES. RELEASE FROM SERVICE) ACT, 1940.

(2) The Act mentioned in Part II of the Schedule to this Act shall, to the extent specified in column three of that Part of that Schedule, be continued until the thirty-first day of March nineteen hundred and forty-two.

(3) Any unrepealed enactments which are temporary in their duration shall, in so far as they amend or affect any enactment continued by the foregoing provisions of this Act, be continued in like manner as that enactment whether they are mentioned in the Schedule to this Act or not.

2. *Short title and application to Northern Ireland.*—(1) This Act may be cited as the Expiring Laws Continuance Act, 1940.

(2) This Act shall apply to Northern Ireland in so far as it deals with any enactment relating to a subject with respect to which the Parliament of Northern Ireland has not power to make laws, but, save as hereinbefore provided, shall not apply to Northern Ireland.

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The Naval And Marine Forces (Temporary Release From Service) Act, 1940.

(4 & 5 Geo. 6, Ch. 4.)

CHAPTER 4.

*An Act to provide for the release and recall of men serving in
the royal navy or the royal marine forces.*

[19th December, 1940.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. *Power to release from service in the navy or marine forces.*

—(1) At any time during the war period any seaman or marine serving in the royal navy or the royal marine forces, may, on the order of the competent naval authority, be released from his service, and, so long as the order remains in force, he shall be in the position in which he would be if he had, at the time of the making of the order, been duly transferred to the royal naval reserve, and no order calling the royal naval reserve into actual service were in force.

(2) Any order made under this section with respect to any person may be revoked by the competent naval authority, and, on revoking such an order, the said authority may, if the term of service of that person has not

expired, give directions requiring him to re-enter into actual service for the remainder of that term in the royal navy or the royal marine forces, as the case may be, and to attend at the place and time fixed by those directions.

(3) For the purposes of section twenty-one of the Royal Naval Reserve (Volunteer) Act, 1859, (which provides for the punishment of a person failing to attend on being called into actual service under that Act) any directions given with respect to any person under the last foregoing sub-section shall have effect as if they were an order made by the Admiralty under that Act calling him into actual service.

(4) Any proclamation under section nine of the Naval Enlistment Act, 1853, section five of the Royal Naval Reserve (Volunteer) Act, 1859, or section one of the Royal Marines Act, 1939, extending the term of service of persons serving in the royal navy or the royal marine forces shall apply to any person released from service by an order made under this section in like manner as if no such order had been made; and accordingly the references in sub-section (2) of this section to the term of service of any such person shall be construed as references to his term of service as extended by any such proclamation.

2. *Short title, interpretation and commencement.*—(1) This Act may be cited as the Naval and Marine Forces (Temporary Release from Service) Act, 1940.

(2) In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“seaman or marine” has the same meaning as in the Naval and Marine Pay and Pensions Act, 1865;

“the competent naval authority” means the Admiralty or an officer designated by the Admiralty;

“the war period” means the period beginning with the first day of September nineteen hundred and thirty-nine and ending with such date as His Majesty may by Order in Council declare to be the date on which the emergency that was the occasion of the passing of this Act came to an end.

(3) This Act shall be deemed to have been in force as from the first day of September nineteen hundred and thirty-nine, and any order made before the passing of this Act releasing any seaman or marine from service in the royal navy or the royal marine forces shall be deemed to have been made under this Act.

Published in the “*Gazette of India*”, Part I, dated the 23rd August 1941.

LEGISLATIVE DEPARTMENT.

Simla, the 14th August 1941.

No. 4 II-41-P.—The following Statute is republished for general information:—

The Army and Air Force (Annual) Act, 1941.

(4 & 5 Geo. 6, Ch. 27.)

CHAPTER 17.

An Act to provide, during twelve months, for the discipline and regulation of the Army and the Air Force.

[10th April 1941.]

WHEREAS the raising or keeping of a standing army within the

4 THE ARMY AND AIR FORCE (ANNUAL) ACT, 1941. [STATUTES.]

United Kingdom in time of peace, unless it be with the consent of Parliament, is against law:

And whereas it is adjudged necessary by His Majesty and this present Parliament that a body of land forces should be continued for the safety of the United Kingdom and the defence of the possessions of His Majesty's Crown, and that the whole number of such forces should consist of such number as His Majesty may deem necessary.

And whereas under the Air Force (Constitution) Act, 1917, His Majesty is entitled to raise and maintain the air force, and it is judged necessary that the whole number of such force should consist of such number as His Majesty may deem necessary.

And whereas it is also judged necessary for the safety of the United Kingdom and the defence of the possessions of this realm that a body of Royal Marine forces should be employed in his Majesty's fleet and naval service under the direction of the Lord High Admiral of the United Kingdom, or the Commissioners for executing the office of the Lord High Admiral aforesaid:

And whereas the said marine forces may frequently be quartered or be on shore, or be sent to do duty or be on board transport ships or vessels, merchant ships or vessels, or other ships or vessels, or they may be under other circumstances, in which they will not be subject to the laws relating to the government of His Majesty's Forces by sea:

And whereas no man can be forejudged of life or limb, or subjected in time of peace to any kind of punishment within this realm, by martial law, or in any other manner than by the judgment of his peers and according to the known and established laws of this realm; yet, nevertheless, it being requisite, for the retaining all the beforementioned forces, and other persons subject to military law or to the Air Force Act, in their duty, that an exact discipline be observed and that persons belonging to the said forces who mutiny, or stir up sedition, or desert His Majesty's service, or are guilty of crimes and offences to the prejudice of good order and military or air force discipline, be brought to a more exemplary and speedy punishment than the usual forms of the law will allow:

And whereas the Army Act and the Air Force Act will expire in the year one thousand nine hundred and forty-one on the following days:—

(a) In Great Britain and Northern Ireland, the Channel Islands, and the Isle of Man, on the thirtieth day of April; and

(b) Elsewhere, whether within or without His Majesty's dominions, on the thirty-first day of July:

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. *Short title.*—This Act may be cited as the Army and Air Force (Annual) Act, 1941.

2. *Army Act and Air Force Act to be in force for specified times.*—(1) The Army Act and the Air Force Act shall be and remain in force during the periods hereinafter mentioned, and no longer, unless otherwise provided by Parliament, that is to say:—

(a) Within Great Britain and Northern Ireland, the Channel Islands, and the Isle of Man, from the thirtieth day of April, one thousand nine hundred and forty-one, to the thirtieth day of April, one thousand nine hundred and forty-two, both inclusive; and

(b) Elsewhere, whether within or without His Majesty's dominions, from the thirty-first day of July, one thousand nine hundred and forty-one, to the thirty-first day of July, one thousand nine hundred and forty-two, both inclusive.

(2) Notwithstanding anything in sub-section (1) of section fifteen of the Army and Air Force (Annual) Act, 1934, the amendments of the Army Act and of the Air Force Act made by this Act shall come into operation in all places as from the thirtieth day of April, nineteen hundred and forty-one.

(3) The Army Act and the Air Force Act, while in force, shall apply to persons subject to military law or to the Air Force Act, as the case may be, whether within or without His Majesty's dominions.

AMENDMENTS OF THE ARMY AND AIR FORCE ACTS.

3. *Amendment of section 108A of Army Act and section 108A of Air Force Act.*—Section one hundred and eight A of the Army Act and section one hundred and eight A of the Air Force Act (which provide for billeting in cases of emergency) shall respectively have effect as if at the end of paragraph (b) of sub-section (3) thereof (which requires certain powers and duties to be exercised and performed by chief officers of police), there were inserted the following proviso:—

"Provided that a chief officer of police may, to such extent and subject to such restrictions as he thinks proper, authorise any individual constable, or any class of constables, to exercise and perform on his behalf all or any of the said powers and duties:"

4. *Amendment of section 47 of Army Act.*—In sub-section (1) of section forty-seven of the Army Act (which specifies the authorities who have power to deal summarily with charges against officers and warrant officers), for the words "any officer (not under the rank of major-general) appointed for the purpose by the Army Council" there shall be substituted the words "any such officer (not under the rank of major-general) as may be prescribed or as may be appointed for the purpose by the Army Council".

5. *Amendment of section 54 of Army Act.*—The proviso to paragraph (d) of sub-section (1) of section fifty-four of the Army Act, (which prohibits the carrying into effect of a sentence of death of penal servitude awarded by a field general court-martial unless confirmed by the authority therein specified) shall have effect subject to the following amendments:—

(a) for the words "the general or field officer" there shall be substituted the words "the officer, not being below the rank of field officer, flag officer or squadron leader", and

(b) at the end there shall be added the words "whether such officer is an officer of the army, navy or air force".

6. *Amendment of section 190 of Army Act.*—(1) For paragraph (5) of section one hundred and ninety of the Army Act there shall be substituted the following paragraph:—

"(5) The expression 'non-commissioned officer' means a non-commissioned officer or acting non-commissioned officer of His Majesty's

6. THE ARMY AND AIR FORCE (ANNUAL) ACT, 1941. [STATUTES.]

forces, or any arm, branch, or part thereof, and includes also any non-commissioned officer or acting non-commissioned officer of His Majesty's air forces or of a Dominion force who is for the time being subject to military law."

(2) After the said paragraph (5) there shall be inserted the following paragraph:—

"(5A) The expression 'warrant officer' includes any warrant officer of His Majesty's air forces or of a Dominion force who is for the time being subject to military law".

7. *Amendment of section 190 of the Air Force Act.*—(1) For paragraph (5) of section one hundred and ninety of the Air Force Act there shall be substituted the following paragraph:—

"(5) The expression 'non-commissioned officer' means a non-commissioned officer or acting non-commissioned officer of the air force, or any arm, branch or part thereof and includes also—

(a) an air-force schoolmaster when not a warrant officer;

(b) a petty officer or acting petty officer of His Majesty's naval forces who is for the time being subject to this Act; and

(c) a non-commissioned officer or acting non-commissioned officer of His Majesty's military forces or of a Dominion force or of a force raised in India or Burma who is for the time being subject to this Act".

(2) After the said paragraph (5) there shall be inserted the following paragraph:—

"(5A) The expression 'warrant officer' includes any warrant officer of His Majesty's military forces or of a Dominion force or of a force raised in India or Burma who is for the time being subject to this Act".

8. *Amendment of section 15 of 22 & 23 Geo. 5 c. 22. 2 & 3 Geo. 6 c. 62.*—Section fifteen of the Army and Air Force (Annual) Act, 1932 (which relates to the construction and printing of amendments to the Army Act and the Air Force Act) shall have effect, during the continuance in force of the Emergency Powers (Defence) Act, 1939, as if the references in sub-section (2) of the said section to any enactment (whether passed before or after the Army and Air Force (Annual) Act, 1932) and to any enactment for the time being in force, respectively, and the reference in sub-section (3) of that section to any other Act (whether passed before or after the said Act) included in each case a reference to any Regulation made under the Emergency Powers (Defence) Acts, 1939 and 1940.

**Notifications,
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Notifications, Central Government.

Published in the "*Gazette of India*," Part I, dated the 16th November 1940.

FINANCE DEPARTMENT (CENTRAL REVENUES.)

New Delhi, the 16th November 1940.

No. 29.—In exercise of the powers conferred by section 5 of the **Motor Spirit (Duties) Act, 1917** (II of 1917), as made applicable to the levy and collection of an excise duty on kerosene by section 5 of the Indian Finance Act, 1922 (XII of 1922), the Central Government is pleased to direct that the following further amendment shall be made in the Northern India Kerosene (Duties) Order, 1938, namely:—

For sub-clause (2) of clause 6 of the said Order, the following sub-clauses shall be substituted, namely:—

(2) The Collector may direct that no kerosene shall be issued from a manufactory except under a pass signed by the owner of the manufactory and containing the following particulars—

- (a) name and address of manufactory;
- (b) date and time of issue;
- (c) total number of gallons issued; and
- (d) consignee's name and destination of consignment.

The pass shall be prepared in triplicate of which one copy shall be retained by the owner, one copy shall accompany the consignment to its destination and the third copy shall be sent without delay to the Inspector.

(3) The Collector may direct the owner of a manufactory to keep a correct daily account of diesel or crude oil received in his manufactory, refined into kerosene, disposed of by sale, destroyed, and of the balance in stock.

(4) Every owner of manufactory shall give prompt intimation of the commencement of manufacture in his manufactory to the Inspector by registered post.

(5) If any person fails without lawful excuse (the burden of proving which shall lie upon such person) to comply with the provisions of sub-clauses (1) to (4), he shall be punishable with fine which may extend to five hundred rupees."

Published in the "*Gazette of India*," Part I, dated the 23rd November 1940.

HOME DEPARTMENT.

New Delhi, the 16th November 1940.

No. 61/40-Judicial.—In exercise of the powers conferred by the fourth paragraph of section 1 of the **Transfer of Property Act, 1882** (IV of 1882), the Central Government is pleased to extend section 129 of the said Act to the following areas in the Province of Delhi, namely:—

(a) Area within the jurisdiction of the Delhi Municipal Committee.

(b) Area within the jurisdiction of the New Delhi Municipal Committee.

(c) Area within the jurisdiction of the Notified Area Committee, Civil Lines, and

(d) Area within the jurisdiction of the Notified Area Committee, Fort.

New Delhi, the 20th November 1940.

No. 142/40-Judicial.—In exercise of the powers conferred by clause (a) of rule 8B of Order XXVII of the First Schedule to the **Code of Civil Procedure, 1908** (Act V of 1908), the Central Government is pleased to direct that the following amendments shall be made in the notifications of the Government of India in the Home Department, No. 204/37-Judicial, dated the 1st April 1938, No. 192/38-Judicial, dated the 10th January 1939, No. 204/37-Judicial, dated the 20th March 1940 and No. 204/37-I-Judicial, dated the 11th April 1940, namely :—

1. To each of the said notifications, the following proviso shall be added, namely :—

"Provided that the suit does not relate to the Eastern Bengal, East Indian, Great Indian Peninsula or North Western Railway or the State Railways Coal Department."

2. In the Schedule annexed to notification No. 204/37-Judicial, dated the 1st April 1938, in the first column, in the entry "The Central Provinces and Berar", the words "and Berar" shall be omitted.

No. 142/40-I-Judicial.—In exercise of the powers conferred by clause (a) of rule 8B of Order XXVII of the First Schedule to the **Code of Civil Procedure, 1908** (Act V of 1908), as applied to Berar, the Central Government is pleased to appoint the Government Pleaders in Berar to be Crown Pleaders for the purpose of the said Order in relation to any suit by or against the Secretary of State or the Central Government, or against a public officer in the service of that Government in any court in Berar :—

Provided that the suit does not relate to the Eastern Bengal, East Indian, Great Indian Peninsula or North Western Railway or the State Railways Coal Department.

FINANCE DEPARTMENT (CENTRAL REVENUES.)

New Delhi, the 23rd November 1940.

No. 31.—In exercise of the powers conferred by section 18 of the **Matches (Excise Duty) Act, 1934** (XVI of 1934), the Central Government is pleased to direct that the following further amendment shall be made in the Northern India Matches (Excise Duty) Supplementary Order, 1938, namely :—

In clause 16 of the said Order, after the word "Superintendent" wherever it occurs, the words "or Deputy Superintendent" shall be inserted.

No. 5.—In exercise of the powers conferred by clause (a) of section 9 of the **Indian Stamp Act, 1899** (11 of 1899), the Central Government has been pleased to reduce, with effect from the 13th January 1940, the duty chargeable under the said Act on a promissory note made or drawn in and payable in British India where payable otherwise than on demand, but not

more than one year after date or sight, to two annas for every one thousand rupees or part thereof of the amount of the promissory note.

Published in the *Gazette of India*, Extraordinary dated the 30th November 1940.

HOME DEPARTMENT.

New Delhi, the 30th November, 1940.

No. 194/39-Judicial.—In exercise of the powers conferred by section 7 of the **Delhi Laws Act, 1912** (XIII of 1912), the Central Government is pleased to direct that the following further amendment shall be made in the notification of the Government of India in the Home Department No. 189/38-Judicial, dated the 30th May 1939, namely:—

To the entries in the Schedule annexed to the said notification, the following entry shall be added, namely:—

"56. The Punjab Criminal Law (Second Amendment) The Province of Delhi." Act, 1940 (Punjab Act XIII of 1940).

Published in the "*Gazette of India*, Part I, dated the 30th November 1940.

HOME DEPARTMENT.

New Delhi, the 28th November 1940.

No. 21/12/40.—In exercise of the powers conferred by sections 17 and 27 of the **Indian Arms Act, 1878** (XI of 1878), the Central Government is pleased to direct that the following further amendments shall be made in the Indian Arms Rules, 1924, namely:—

In the said Rules and in the Schedules annexed thereto, in—

(a) sub-clause (iii) of clause (a) of sub-rule (1) of rule 7;

(b) sub-rule (3) of rule 28;

(c) clauses (i) and (ii) of the proviso to sub rule (1) of rule 38;

(d) clauses (a) and (b) of the proviso to sub-rule (1) of rule 34;

(e) sub-rule (1) of rule 38;

(f) clause (d) of the entries relating to items (1), (2), (3) and (6) in the second column of of Schedule I; and

(g) clause (iv) of condition (a) relating to item (11) in column 3 of Schedule VI, after the words and figures "or of .38 bore" the words, figure and letters "or 9 m.m. calibre" shall be inserted.

DEPARTMENT OF LABOUR.

New Delhi, the 26th November 1940.

No. L-3090.—In exercise of the powers conferred by section 7 of the **Employment of Children Act, 1938** (XXVI of 1938), the Central Government is pleased to make the following rules, the same having been previously published as required by sub-section (1) of the said section, namely:—

1. These rules may be called the Employment of Children (Major Ports) Rules, 1940.

2. In these rules, "the Act" means the Employment of Children Act, 1938 (XXVI of 1938).

3. An Inspector appointed by the Central Government may enter any place where persons are employed in any occupation connected with the transport of passengers of goods within the limits of a major port and may take on the spot or otherwise such evidence of any persons, and exercise such other powers of inspection, as he may deem necessary for carrying out the purposes of the Act.

4. (1) A Port Health Officer or Assistant Port Health Officer may grant certificates of age in respect of young persons in employment or seeking employment in major ports.

(2) A charge of annas eight may be made for the grant of each certificate.

5. A certificate of age granted under rule 4 shall be in the Form appended to these rules.

FORM OF CERTIFICATE

For the Form see page 1686 of Part I of the *Gazette of India*, 1940.

New Delhi, the 27th November 1940.

No. M.-955 (1).—In exercise of the powers conferred by section 12 of the **Coal Mines Safety (Stowing) Act, 1939** (XIX 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Coal Mines Safety (Stowing) Rules, 1939, the same having been previously published as required by sub-section (1) of the said section, namely:—

In Chapter IV of the said Rules, after rule 30, the following rule shall be inserted, namely:—

30A. *Determination of the net proceeds of the duty of excise.*—

(1) For the purposes of section 7, the net proceeds of the duty of excise realised under section 5 in a financial year shall be determined separately in respect of each Railway Administration collecting such duty and certified as soon as possible after the close of the financial year by such officer or officers as the Central Government may appoint in this behalf.

(2) In determining the net proceeds under sub-rule (1) the officers shall take into account the total amount of the duty collected, the refunds granted, and the write-offs sanctioned by the Railway Administration during the year, and the deduction towards the cost of collection fixed by the Central Government, in accordance with these Rules.

(3) The certificates under sub-rule (1) shall be sent to the Central Government, and copies thereof to the Accountant-General, Bengal, by the officers concerned.

New Delhi, the 28th November 1940.

No. M.-826.—In exercise of the powers conferred by section 4 and sub-section (1) of section 29 of the **Petroleum Act, 1934** (XXX of 1934), the Central Government is pleased to direct that the following further amendment shall be made in the Petroleum Rules, 1937, the same having been previously published as required by sub-section (2) of section 29 of the said Act, namely:—

To sub-rule (3) of rule 27 of the said Rules, the following proviso shall be added, namely:—

"Provided that receptacles having a capacity exceeding 30 but not exceeding 45 gallons, used in transporting dangerous petroleum between Karachi and Cutch may have a thickness of metal not less than 18 B. G."

Published in the "*Gazette of India*", Part I dated the 5th December 1940.

DEPARTMENT OF LABOUR.

New Delhi, the 30th November 1940.

No. M.-1217 (1).—In exercise of the powers conferred by sections 5 and 7 of the **Indian Explosives Act, 1884**, (IV of 1884) the Central Government is pleased to make the following rules, a draft of the same having been previously published as required by section 18 of the said Act, namely:—

The Explosive Rules, 1940.**CHAPTER I.****PRELIMINARY.**

1. *Short title and extent.*—(1) These rules may be called the Explosives Rules, 1940.

(2) They extend to the whole of British India, including British Baluchistan.

2. *Supersessions and savings.*—(1) The Indian Explosive Rules, 1914, and all rules and notifications issued by Local or Provincial Governments, under the Indian Explosives Act, 1884 (IV of 1884), are hereby superseded, but—

(i) all licences or duplicates granted or renewed and all fees imposed or levied shall be deemed to have been respectively granted, renewed, imposed or levied under these rules; and

(ii) all approval given, all appointments made and all powers conferred by or under any rule or notification so superseded shall, so far as they are consistent with the Act and these rules, be deemed to have been given, made or conferred by or under these rules.

(2) Anything not in conformity with these rules which was permitted to be done by or under any rule in force immediately before the coming into force of these rules may, in special cases, be permitted by the Chief Inspector by order in writing to be continued for such period not exceeding two years as may be specified in the order.

For remaining portion see pages 674-749 of the *Gazette of India*, Extraordinary, dated the 5th December 1940.

Published in the "*Gazette of India*", Part I, dated the 7th December 1940
HOME DEPARTMENT.

New Delhi, the 29th November 1940.

No. 1.—In exercise of the powers conferred by section 5 of the **Registration (Emergency Powers) Act, 1940** (I of 1940), the Central Government is pleased to direct that the following further amendment shall be made in the Registration Rules, 1939, namely:—

To sub-rule (1) of rule 5 of the said rules, the following proviso shall be added, namely:—

"Provided that a person in the service of the Crown or of a Railway need not notify any change of address within India unless he is transferred to the control of another registration authority."

New Delhi, the 5th December 1940.

No. 11/45/40.—In exercise of the powers conferred by section 13 of the **Indian Naturalization Act, 1926** (VII of 1926), the Central Government is pleased to direct that the following further amendment shall be made in the Indian Naturalization Rules, 1938, namely:—

In Form K of the Forms appended to the said Rules, after the word "Sworn" the brackets and words "(or affirmed)" shall be inserted.

FINANCE DEPARTMENT (CENTRAL REVENUES).

New Delhi, the 7th December 1940.

No. 32.—In exercise of the powers conferred by section 5 of the **Motor Spirit (Duties) Act, 1917** (II of 1917), as made applicable to the levy and collection of excise duty on kerosene by section 5 of the Indian Finance Act, 1922 (XII of 1922), the Central Government is pleased to direct that the following further amendment shall be made in the Northern India Kerosene (Duties) Order, 1938, namely:—

After clause 8 of the said Order, the following clause shall be inserted, namely:—

"8A. *Refund on consignments returned to the manufactory.*—The Collector may grant refund of duty on consignments of kerosene issued from the manufactory but returned to it for *bona-fide* trade reasons, provided he is satisfied that (i) duty has been paid thereon, (ii) prior notice has been given to the Inspector of all consignments taken back, (iii) samples have been drawn from the returned consignments for analysis by the Chemical Examiner and (iv) a detailed account of the returned consignments has been kept. No refund will be admissible in respect of any consignment which has been tampered with in any way."

DEPARTMENT OF COMMERCE.

New Delhi, the 7th December 1940.

No. 20-W. R. 1./40.—In exercise of the powers conferred by section 14 of the **War Risks (Goods) Insurance Ordinance, 1940** (No. IX of 1940), the Central Government is pleased to direct that the following further amendment shall be made in the War Risks (Goods) Insurance Rules, 1940, namely:—

In rule 5 of the said Rules, after the words "in the course of his business as a seller of goods", the following words shall be inserted, namely:—

"and which are not at the time of such application covered by a policy insuring them against war risks under the Scheme."

Published in the "*Gazette of India*", Part I, dated the 14th December 1940.

FINANCE DEPARTMENT (CENTRAL REVENUES).

New Delhi, the 14th December 1940.

No. 33.—In exercise of the powers conferred by section 7 of the **Matches (Excise Duty) Act, 1934** (XVI of 1934), the Central Government is pleased to prohibit absolutely the bringing of matches into British India from the territory of the Kotharia Taluka in the Western Kathiawar Agency, with effect from the 22nd December 1940.

DEPARTMENT OF COMMERCE

New Delhi, the 14th December 1940.

No. 21-W. R. 1./40.—In exercise of the powers conferred by section 14 of the **War Risks (Goods) Insurance Ordinance, 1940** (No. IX of 1940), the Central Government is pleased to direct that the following further amendment shall be made in the War Risks (Goods) Insurance Rules, 1940, namely:—

In sub-rule (1) of rule 6 of the said rules, after the figures "1940", the words and figures "or the quarter ending on the 31st March 1941", shall be inserted.

Published in the "*Gazette of India*", Extraordinary, dated the 19th December 1940.

DEPARTMENT OF COMMERCE.

New Delhi, the 19th December 1940.

No. 334 (6)-Tr. (I. E. R.)/40.—In pursuance of sub-section (3) of section 1 of the **Coffee Market Expansion Ordinance, 1940** (No. XIII of 1940), the Central Government is pleased to appoint the 21st day of December 1940, as the date on which the said Ordinance shall come into force.

Published in the "*Gazette of India*", Part I, dated the 21st December 1940.
HOME DEPARTMENT.

New Delhi, the 18th December 1940.

No. 21/3/38.—In exercise of the power conferred by section 27 of the **Indian Arms Act, 1878** (XI of 1878), the Central Government is pleased to direct that the following further amendment shall be made in the Indian Arms Rules, 1924, namely :—

In the Table set forth in Schedule II to the said Rules, against the entry "2. British India" for the entries in the second column numbered (iv) and the entries in the third column corresponding thereto, the following entries shall be substituted, namely :—

"(iv) Fuses for blasting (safety or otherwise), tubes for firing explosives, detonators and other explosives not being of the 6th (Ammunition) class as defined in Schedule I to the Explosives Rules, 1940 ;	}	All, except those relating to export.
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and

the following classes of explosives when intended *bona fide* for private blasting purposes :—

- | | | |
|---|---|---------------------------------|
| <p>(1) cartridges made with gunpowder and not containing their own means of ignition, and containing in all not more than 30 pounds of gunpowder,</p> <p>(2) percussion caps.</p> | } | Those contained in section 14." |
|---|---|---------------------------------|

New Delhi, the 19th December 1940.

No. 253/40.—In exercise of the powers conferred by section 12 of the **National Service (European British Subjects) Act, 1940** (XVIII of 1940), the Central Government is pleased to direct that the following amendment shall be made in the National Service (European British Subjects) Rules, 1940, namely :—

For rule 11 of the said Rules, the following rule shall be substituted, namely :—

"11. Any person called up for service under section 7 of the Act may be permitted by the competent authority to continue to subscribe to any Provident or Superannuation Fund or other scheme for the benefit of employees maintained or managed by his former employer ; and, thereupon,

(a) The employer by whom he has been released for national service shall keep open his account and receive such subscriptions as the employee may subscribe ; and

(b) for the purpose of calculating any withdrawals from Provident Fund which the person called up may wish to make, his pay shall be deemed to be the pay which he was drawing immediately before he was called up."

FINANCE DEPARTMENT (CENTRAL REVENUES.)

New Delhi, the 21st December 1940.

No. 34.—In exercise of the powers conferred by section 5 of the **Motor Spirit (Duties) Act, 1917** (II of 1917), the Central Government is pleased to direct that the Motor Spirit (Power Alcohol Mixture) (Duties) Order, 1940, shall be cancelled.

No. 3.—In exercise of the powers conferred by sub-section (a) of section 3 of the **Excess Profits Tax Act, 1940** (XV of 1940), the Central

Government is pleased to direct that the following amendment shall be made in the Excess Profits Tax (Boards of Referees) Rules, 1940, namely:—

In rule 3 of the said Rules, for the words and figure "of section 8", the words, brackets and figures, "or the proviso to sub-section (8), of section 8, or under rule 11 of Schedule I," shall be substituted.

DEPARTMENT OF COMMERCE.

New Delhi, the 21st December 1940.

No. 334 (5)-Tr. (I. E. R.)/40.—In exercise of the powers conferred by section 15 of the **Coffee Market Expansion Ordinance, 1940** (No. XIII of 1940), the Central Government is pleased to make the following Rules, namely:—

The Coorg Coffee Estate owners Registration Rules, 1940.

1. (1) These rules may be called the Coorg Coffee Estate-owners Registration Rules, 1940.

(2) They extend to the Province of Coorg.

2. In these rules—

(i) "Form" means a form appended to these rules;

(ii) "Ordinance" means the Coffee Market Expansion Ordinance, 1940;

(iii) "Registering Officer" means the registering officer appointed by the Provincial Government under sub-section (1) of section 14 of the Ordinance.

(3) An application for registration under section 14 of the Ordinance shall be made to the Registering Officer in Form A and shall be accompanied by a fee of rupee one in respect of each estate owned by the applicant.

4. An application for registration shall not be granted by the Registering Officer if he is satisfied that the area under coffee in the applicant's estate or estates is less than 25 acres, and for this purpose he may call for such additional information as he thinks fit from the applicant.

5. If an application for registration is granted the Registering Officer shall issue a certificate of registration in Form B.

6. (1) A registration may be cancelled by the Registering Officer on application made by a registered owner on the ground that the area under coffee in the registered estate or estates has fallen below 25 acres or that he has ceased to be the owner of the registered estate or estates.

(2) Every application under sub-rule (1) shall be accompanied by a fee of one rupee.

7. A registered owner shall, in the event of any of his estates being sold or otherwise transferred, intimate to the Registering Officer the particulars of the estate sold or transferred.

8. The Registering Officer shall maintain a register of registered owners and a register of registered estates, and shall forward to the Board from time to time certified copies of all entries in those registers.

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For Appendix see page 1754 of Part I of the *Gazette of India*, 1940.

No. 23-W. R. I/40.—In exercise of the powers conferred by section 14 of the **War Risks (Goods) Insurance Ordinance, 1940** (No. IX of 1940), the Central Government is pleased to direct that the following further amendments shall be made in the War Risks (Goods) Insurance Rules, 1940, namely:—

In the said Rules—

(1) In rule 7, for the words "The amount" the words and figures "Except as provided in rule 12, the amount" shall be substituted.

(2) To rule 12, the following proviso shall be added, namely :—

"Provided that if the amount of the deficiency be less than eight annas in the case of a policy issued for a period not exceeding one month, or less than one rupee in the case of a policy issued for a period exceeding a month, and is on account of bank charges or money order commission, the premium payable on such further application shall be ten times the amount of such deficiency."

Published in the *Gazette of India*, Extraordinary, dated the 21st December 1940.

DEPARTMENT OF COMMERCE.

New Delhi, the 21st December 1940.

No. 334 (5)-Tr. (I. E. R.)/40.—In exercise of the powers conferred by section 48 of the **Coffee Market Expansion Ordinance, 1940** (No. XIII of 1940), the Central Government after consulting the Indian Coffee Market Expansion Board is pleased to make the following Rules, namely :—

The Coffee Market Expansion Rules, 1940.

1. These rules may be called the Coffee Market Expansion Rules, 1940.

2. In these rules :—

(1) "Controller" means the Controller of Coffee appointed under section 8 of the Ordinance;

(2) "Form" means a Form set forth in the schedule annexed to these rules;

(3) "Ordinance" means the Coffee Market Expansion Ordinance, 1940 (No. XIII of 1940).

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For the remaining portion of the Rules See page 775 of the *Gazette of India*, Extraordinary, dated the 21st December 1940.

Published in the *Gazette of India*, Part I, dated the 28th December 1940.

FINANCE DEPARTMENT (CENTRAL REVENUES).

New Delhi, the 28th December 1940.

No. 35.—In exercise of the powers conferred by section 5 of the **Motor Spirit (Duties) Act, 1917** (II of 1917), the Central Government is pleased to direct that the following further amendment shall be made in the Motor Spirit (Duties) Order, 1917, namely :—

After clause 3 of the said Order, the following clause shall be inserted, namely :—

"3-A. No motor spirit shall be issued out of a manufactory, after 5 P.M., on the day appointed for the presentation of the annual or supplementary Budget of the Central Government to the Chambers of the Indian Legislature."

No. 36.—In exercise of the powers conferred by section 5 of the **Motor Spirit (Duties) Act, 1917** (II of 1917), the Central Government is pleased to direct that the following further amendment shall be made in the Northern India Motor Spirit (Duties) Order, 1938, namely :—

After clause 3 of the said Order, the following clause shall be inserted, namely :—

"3-A. No motor spirit shall be issued out of a manufactory, after 5 P.M., on the day appointed for the presentation of the annual or supplementary

Budget of the Central Government to the Chambers of the Indian Legislature."

No. 37.—In exercise of the powers conferred by section 5 of the **Motor Spirit (Duties) Act, 1917**, (XI of 1917), as made applicable to the levy and collection of an excise duty on kerosene by section 5 of the Indian Finance Act, 1922 (XII of 1922), the Central Government is pleased to direct that the following further amendment shall be made in the Kerosene (Duties) Order, 1922, namely:—

After clause 3 of the said Order, the following clause shall be inserted, namely:—

"3-A. No kerosene shall be issued out of a manufactory, after 5 P. M., on the day appointed for the presentation of the annual or supplementary Budget of the Central Government to the Chambers of the Indian Legislature."

No. 38.—In exercise of the powers conferred by section 5 of the **Motor Spirit (Duties) Act, 1917** (II of 1917), as made applicable to the levy and collection of an excise duty on kerosene by section 5 of the Indian Finance Act, 1922 (XII of 1922), the Central Government is pleased to direct that the following further amendment shall be made in the Northern India Kerosene (Duties) Order, 1938, namely:—

After clause 3 of the said Order, the following clause shall be inserted, namely:—

"3-A. No kerosene shall be issued out of a manufactory, after 5 P. M., on the day appointed for the presentation of the annual or supplementary Budget of the Central Government to the Chambers of the Indian Legislature."

No. 39.—In exercise of the powers conferred by section 11 of the **Sugar (Excise Duty) Act, 1934** (XIV of 1934), the Central Government is pleased to direct that the following further amendment shall be made in the Sugar (Excise Duty) Order, 1934, namely:—

After clause 18 of the said Order, the following clause shall be inserted, namely:—

"19. No sugar shall be issued out of a factory or used within a factory in the manufacture of any commodity other than sugar, after 5 P. M., on the day appointed for the presentation of the annual or supplementary Budget of the Central Government to the Chambers of the Indian Legislature."

No. 40.—In exercise of the powers conferred by section 11 of the **Sugar (Excise Duty) Act, 1934** (XIV of 1934), the Central Government is pleased to direct that the following further amendment shall be made in the Northern India Sugar (Excise Duty) Order, 1938, namely:—

After clause 26 of the said Order, the following clause shall be inserted, namely:—

"27. No sugar shall be issued out of a factory or used within a factory in the manufacture of any commodity other than sugar, after 5 P. M., on the day appointed for the presentation of the annual or supplementary Budget of the Central Government to the Chambers of the Indian Legislature."

No. 41.—In exercise of the powers conferred by section 18 of the **Matches (Excise Duty) Act, 1934** (XVI of 1934), the Central Government is pleased to direct that the following further amendment shall be made in the Matches (Excise Duty) Order, 1934, namely:—

After clause 38 of the said Order, the following clause shall be inserted, namely:—

"38-A. No matches shall be issued out of a manufactory, after 5 P. M., on the day appointed for the presentation of the annual or supplementary Budget of the Central Government to the Chambers of the Indian Legislature."

No. 42.—In exercise of the powers conferred by section 18 of the **Matches (Excise Duty) Act, 1934** (XVI of 1934), the Central Government is pleased to direct that the following further amendment shall be made in the Northern India Matches (Excise Duty) Order, 1938, namely:—

After clause 41 of the said Order, the following clause shall be inserted, namely:—

"41-A. No matches shall be issued out of a manufactory, after 5 P. M., on the day appointed for the presentation of the annual or supplementary Budget of the Central Government to the Chambers of the Indian Legislature."

DEPARTMENT OF COMMERCE.

New Delhi, the 28th December 1940.

No. 24-W. R. I./40.—In exercise of the powers conferred by section 44 of the **War Risks (Goods) Insurance Ordinance, 1940** (No. IX of 1940), the Central Government is pleased to direct that with effect from the 1st January 1941, the following further amendment shall be made in the War Risks (Goods) Insurance Rules, 1940, namely:—

To the Conditions set forth in the Second Schedule to the said Rules, the following condition shall be added, namely:—

"12. The liability of the Governor General under the policy shall not exceed in the aggregate the sum thereby insured, and accordingly after the happening of any loss or damage the said sum shall be deemed to be reduced by the amount of that loss or damage."

Published in the "*Gazette of India*", Part I, dated the 4th January 1941.

FINANCE DEPARTMENT (CENTRAL REVENUES).

New Delhi, the 4th January 1941.

No. 1.—In exercise of the powers conferred by section 5 of the **Motor Spirit (Duties) Act, 1917** (II of 1917), as made applicable to the levy and collection of an excise duty on kerosene by section 5 of the Indian Finance Act, 1922 (XII of 1922), the Central Government is pleased to direct that the following further amendment shall be made in the Kerosene (Duties) Order, 1922, namely:—

For sub-clause (2) of clause 6 of the said Order, the following sub-clauses shall be substituted, namely:—

"(2) The Collector of Salt Revenue in the Provinces of Bombay and Madras and the Collector or any other officer duly appointed in this behalf by the Provincial Government in the Provinces of Sind, Orissa and Coorg may direct that no kerosene shall be issued from a manufactory except under a pass signed by the owner of the manufactory and containing the following particulars—

- (a) name and address of manufactory ;
- (b) date and time of issue ;
- (c) total number of gallons issued ; and
- (d) consignee's name and destination of consignment.

The pass shall be prepared in triplicate of which one copy shall be retained by the owner, one copy shall accompany the consignment to its destination, and the third copy shall be sent without delay to the Inspector.

(3) The Collector of Salt Revenue in the Provinces of Bombay and Madras and the Collector or any other officer duly appointed in this behalf by the Provincial Government in the Provinces of Sind, Orissa and Coorg may direct the owner of a manufactory to keep a correct daily account of diesel or crude oil received in his manufactory, refined into kerosene, disposed of by sale, destroyed, and of the balance in stock.

(4) Every owner of manufactory shall give prompt intimation of the commencement of manufacture in his manufactory to the Inspector by registered post.

(5) If any person fails without lawful excuse (the burden of proving which shall lie upon such person) to comply with the provisions of sub-clauses (1) to (4), he shall be punishable with fine which may extend to five hundred rupees."

No. 1.—In exercise of the powers conferred by section 49A of the Indian Income-tax Act, 1922 (XI of 1922), and in supersession of the notification of the Government of India in the Finance Department (Central Revenues), No. 67-Income-tax, dated the 19th August 1939, the Central Government is pleased to make the following rules for the granting of relief in respect of income on which tax has been paid both in British India and in certain of His Majesty's Dominions, namely:—

1. These rules may be called the Income-tax (Double Taxation Relief) (Dominions) Rules, 1940.

2. In these rules,—

(a) "Dominion" means any of the territories specified in the first column of the Schedule annexed to these rules;

(b) "Dominion income-tax" means tax charged for any year in accordance with the provisions of the dominions enactment specified in the second column of the said Schedule;

(c) "Dominion rate of tax" has the meaning assigned to it in the section of the respective dominion enactment specified in the third column of the said Schedule;

(d) the expressions "Indian Income-tax" and "Indian rate of tax" have the same meaning as in clauses (a) and (b) respectively of sub-section (2) of section 49 of the Indian Income-tax Act, 1922 (XI of 1922).

(3) If any person who has paid by deduction under section 18 of the Indian Income-tax Act, 1922 or otherwise Indian Income-tax for any year on any part of his income proves to the satisfaction of the Income-tax Officer that he has paid by deduction or otherwise dominion income-tax for that year in respect of the same part of his income, he shall be entitled to a refund of a sum calculated on that part of his income at a rate to be determined as follows:—

(i) If he is resident in British India the rate at which refund is to be given shall be—

(a) the dominion rate of tax, when that rate does not exceed half of the Indian rate of tax, and

(b) half the Indian rate of tax, in any other case.

(ii) If he is not resident in British India the rate at which refund is to be given shall be—

(a) half of the dominion rate of tax when that rate does not exceed the Indian rate of tax, and

(b) in any other case, the amount by which the Indian rate of tax exceeds half of the Dominion rate of tax;

Provided, that in no case shall the rate at which such refund is calculated exceed half the Indian rate of tax appropriate to the income of the person entitled to relief or be greater than the excess of the lower of the Indian and the dominion rate of tax over the rate at which relief is given in the dominion.

4. (1) Every application for refund of Income-tax under these rules shall be made to the Income-tax Officer of the district in which the applicant is chargeable directly to income-tax or if he is not chargeable directly to income-tax, to the Income tax Officer of the district in which the applicant ordinarily resides, or if he is not resident in British India—

(i) to the Income-tax Officer of the district or area in which he was last charged directly to income-tax when so resident, or

(ii) if he has never been so resident, to the Income-tax Officer of the district or area where the income-tax for the refund of which application is made was paid.

(2) Such application may be presented by the applicant in person or by a duly authorised agent or may be sent by post, and shall as far as circumstances permit be in Form I appended to these rules.

5. No claim to any refund of Indian income-tax or super-tax under these rules shall be allowed unless it is made within four years from the last day of the financial year commencing next after the expiry of the previous year in which the income arose, accrued or was received or was deemed to have arisen, accrued or been received or was brought into British India.

Provided, that where the claim is to a refund of income-tax or super-tax paid prior to the 1st April, 1939, the claim shall not be allowed unless it is made within one year from the last day of the year in which such tax or the dominion income-tax was recovered whichever is later.

6. An applicant for refund under these rules may appeal to the Appellate Assistant Commissioner of Income-tax from any order of the Income-tax Officer disallowing the claim for refund either wholly or in part.

7. The appeal shall be presented within thirty days of the date on which the order of the Income-tax Officer was communicated to the applicant, and shall, as far as circumstances permit, be in Form II appended to these rules.

For Form See pages 8 and 9 of Part I of the *Gazette of India*, 1941.

Published in the "*Gazette of India*," Part I, dated the 11th January, 1941.

FINANCE DEPARTMENT.

New Delhi, the 8th January, 1941.

No. D./23-F.—In pursuance of sub-section (6) of section 42 of the **Reserve Bank of India Act, 1934** (II of 1934), the Central Government is pleased to direct the inclusion in the Second Schedule to the said Act of the following Bank, namely:—

The Laxmi Bank, Akola.

Published in the "*Gazette of India*," Part I, dated the 18th January, 1941.

HOME DEPARTMENT.

New Delhi, the 14th January 1941.

No. 106/36.—The following amendments to the Indian (Non-Domiciled Parties) Divorce Rules, 1927, are published for general information:—

The Indian (Non-Domiciled Parties) Divorce Rules.

Amendments made on 1st January 1941.

In exercise of the powers conferred upon me by section 1 (4) of the

Indian and Colonial Divorce Jurisdiction Act, 1926, I, Leopold Charles Maurice Stennett Amery, one of His Majesty's principal Secretaries of State, having obtained the concurrence of the Lord Chancellor, hereby make the following amendments to the Indian (Non-Domiciled Parties) Divorce Rules, 1927, as subsequently amended (hereinafter referred to as "the said Rules") :—

1. In sub-rule (1) of rule 6 of the said Rules, for paragraph (vi) there shall be substituted the following paragraphs :—

"(vi) the matrimonial offences alleged or other grounds on which a decree of dissolution is sought set out in separate paragraphs with the times and places and all other relevant particulars ;

[vi (a)] "if at the date of the institution of a cause of a wife the husband has deserted the wife, and there is reason to believe that he has changed his domicile since the date of the desertion, the domicile of the husband immediately before the desertion, the date when and the circumstances in which the alleged desertion began ;

[vi (b)] "in the case of a petition for presumption of death and dissolution of the marriage, the last place of cohabitation of the parties, the circumstances in which the parties ceased to cohabit, and the date when and the place where the respondent was last seen or heard of ;"

2. In Rule 8 of the said Rules after the word "marriage" the words "on the ground of adultery" shall be inserted.

3. For Rule 20 of the said Rules the following shall be substituted :—

"20. Every decree for the dissolution of a marriage under the Act shall in the first instance be a decree nisi not to be made absolute until after the expiration of six months from the pronouncing thereof unless the Court by general or special order from time to time fixes a shorter time ;

Provided that no decree nisi against which an appeal has been filed, including an appeal to His Majesty in Council, shall be made absolute until after the decision of the appeal."

4. In Rule 22 of the said Rules, for the words "provided that" the following shall be substituted :—

"Provided that in any case where a petition for the dissolution of her marriage is presented by the wife on the ground of her husband's insanity the relevant provisions of the said Act and Rules shall apply as if for the references to the husband there were substituted references to the wife and for the references to the wife there were substituted references to the husband, and in any such case and in any case where a petition for the dissolution of his marriage is presented by the husband on the ground of his wife's insanity the Court may order the payments of alimony or maintenance under the said Act to be made to such persons having charge of the respondent as the Court may direct :

Provided further that".

5. Rule 23 of, and the Schedule attached to, the said Rules shall be omitted.

6. These Rules may be cited as "The Indian (Non-Domiciled Parties) Divorce (Amendment) Rules, 1940".

Given under my hand this first day of January 1941.

L. S. AMERY,
One of His Majesty's Principal
Secretaries of State.

I concur.

SIMON C.

FINANCE DEPARTMENT (CENTRAL REVENUES).

New Delhi, the 18th January, 1941.

No. 2.—In pursuance of sub-section (2) of section 1 of the **Indian Income-tax (Amendment) Act, 1939** (VII of 1939), the Central Government is pleased to appoint the 25th day of January 1941 as the date on which Part II of the said Act shall come into force.

DEPARTMENT OF LABOUR.

New Delhi, the 16th January, 1941.

No. L-3006.—In exercise of the powers conferred by sub-section (1) of section 124 of the Government of India Act, 1935, the Governor General in Council is pleased, with effect from the 1st April 1941, to entrust to the Government of each Province, with its consent, the functions of the Central Government under the **Indian Trade Unions Act, 1926** (XVI of 1926), in relation to trade unions whose objects are not confined to, and whose head office is situated in, that Province.

New Delhi, the 18th January, 1941.

No. M-826.—In exercise of the powers conferred by section 4 and sub-section (1) of section 29 of the **Petroleum Act, 1934** (XXX of 1934), the Central Government is pleased to direct that the following further amendments shall be made in the Petroleum Rules, 1937, the same having been previously published as required by sub-section (2) of section 29 of the said Act, namely:—

In the said Rules—

1. In the proviso to rule 28, for the words "if it is" the words "alternatively in the case of" shall be substituted.

2. After rule 35 the following rules shall be inserted, namely:—

"35-A.—*Petroleum carried as cargo in unberthed passenger ships.*—Dangerous petroleum shall not be transported as cargo by an unberthed passenger ship as defined in the Indian Merchant Shipping Act, 1923 (XXI of 1923):

Provided that the certifying officer referred to in section 157 of the Indian Merchant Shipping Act, 1923 (XXI of 1923), may, in cases where he is satisfied that no other means of transporting the petroleum are available, permit dangerous petroleum in quantity not exceeding 250 gallons to be transported otherwise than in bulk by an unberthed passenger ship other than a country craft subject to—

(a) the condition that no more persons shall be carried in the ship than can with safety be accommodated in the ships life boats in case of accident; and

(b) such other conditions as the certifying officer may, after consultation with the Chief Inspector, impose;

Provided further that clause (a) of the foregoing proviso shall not apply in the case of unberthed passenger ships engaged on voyages between ports situated in British India, or between any port in British India and any port or place on the continent of India or in the Island of Ceylon, in the course of which they do not go more than 20 miles from land.

35-B.—*Transport by country craft.*—No country craft shall carry dangerous petroleum if it is carrying passengers."

3. After rule 51 the following rule shall be inserted, namely:—

"51-A.—*Conditions of transport by unberthed passenger ships.*—Dangerous petroleum may be transported otherwise than in bulk by an unberthed passenger ship as defined in the Indian Merchants Shipping Act, 1923

(XXI of 1923), not being a country craft, in accordance with the provisions of rule 35A and rules 53 to 61 inclusive."

4. In rule 62—

(i) the word "and" at the end of condition (b) shall be omitted :

(ii) after the words "in the case of a decked vessel" the following shall be inserted, namely :—

"and

(d) no passengers shall be carried on board the craft."

Published in the "*Gazette of India*", Part I, dated the 25th January, '941.

New Delhi, the 25th January, 1941.

No. 5.—In exercise of the powers conferred by sub-section (1) of section 59 of the **Indian Income-tax Act, 1922** (XI of 1922), the Central Board of Revenue directs that the following further amendment shall be made in the Indian Income-tax Rules, 1932, the same having been previously published as required by sub-section (4) of the said section, namely :—

1. For rule 22 of the said Rules the following shall be substituted, namely :—

"22. An appeal under section 33 shall, in the case of an appeal against—

(a) an order under clause (a) or (b) or (g) of sub-section (3) of section 31, be in form B (T),

(b) an order under clause (c) of sub-section (3) of section 31, confirming an order under section 26-A, refusing to register a firm or cancelling such order and directing the Income-tax Officer to register the firm, be in form D (1) (T).

(c) an order under clause (d) of sub-section (3) of section 31, confirming, cancelling or varying an order imposing a penalty under sub-section (2) of section 25, be in form C (T),

(d) an order under section 28 imposing a penalty or under clause (f) of sub-section (3) of section 31, confirming, cancelling, enhancing or reducing a penalty imposed under section 28, be in form D/E (T),

(e) an order under clause (f) of sub-section (3) of section 31, confirming, cancelling, enhancing or reducing a penalty imposed under sub-section (6) of section 44-E, be in form H (T),

(f) an order under clause (f) of sub-section (3) of section 31, confirming, cancelling, enhancing, or reducing a penalty imposed under sub-section (5) of section 44-F, be in form H (1) (T),

(g) an order under clause (f) of sub-section (3) of section 31, confirming, cancelling, enhancing, or reducing a penalty imposed under sub-section (1) of section 46, be in form I (T),

(h) an order under clause (d) of sub-section (3) of section 31, confirming, cancelling or varying an order refusing to allow a claim to a refund under section 48, be in form J (T),

(i) an order under clause (d) of sub-section (3) of section 31, confirming, cancelling or varying an order refusing to allow a claim to a refund under section 49, be in form J (1) (T),

(j) an order under clause (d) of sub-section (3) of section 31, confirming, cancelling or varying an order refusing to allow a claim to a refund under section 49-F, be in form J (T) or J (1) (T), according as the original claim to refund arose under section 48 or 49,

(k) an order under clause (c) of sub-section (3) of section 31, confirming an order refusing to cancel an assessment under section 27 or cancelling such

order and directing the Income-tax Officer to make a fresh assessment, be in form A (T),

(l) an order under clause (e) of sub-section (3) of section 31, confirming an order under sub-section (1) of section 25-A or cancelling such order and directing the Income-tax Officer to make a further inquiry and pass a fresh order or to make an assessment in the manner laid down in sub-section (2) of section 25 A, be in form C (1) (T),

(m) an order under clause (d) of sub-section (3) of section 31, confirming, cancelling or varying an order under sub-section (2) of section 26, be in form G. (T), and

(n) an order under clause (d) of sub-section (3) of section 31, confirming, cancelling or varying an order under sub-section (1) of section 23-A, be in form F (T).

For Forms see pages 117—128 of Part I of the Gazette of India, 1941.

Published in the "Gazette of India", Part I, dated the 1st February 1941.

CENTRAL BOARD OF REVENUE.

New Delhi, the 1st February 1941.

No 5.—In exercise of the powers conferred by section 27 of the **Excess Profits Tax Act, 1940** (XV of 1940), the Central Board of Revenue directs that the following amendments shall be made in the Excess Profits Tax Rules, 1940, the same having been previously published as required by sub-section (3) of the said section 27, namely :—

1. In the said Rules—

(1) After rule 10, the following rule shall be inserted, namely :—

"10-A. *Form of application under rule 7 of Sch. II*—An application to the Central Board of Revenue under Rule 7 of Schedule II to the Act for a direction that, in computing the average capital of a business during the standard period, certain assets shall be excluded for such period as they were inherently unproductive, shall be made in form E.P. 30."

(2) After rule 11, the following rules shall be inserted, namely :—

"11-A. *Form of appeal under section 8 (8)*—An appeal under the proviso to sub-section (8) of section 8 of the Act shall be in form E.P. 28-A.

11-B. *Form of appeal under rule 11 of Sch. I*—An appeal against a determination by the Excess Profits Tax Officer under rule 11 of Schedule I to the Act shall be in Form E.P. 29-A."

(3) In rule 18—

(i) in sub-rule (1), for the words and figure "of section 8", the words, brackets and figures, "or the proviso to sub-section (8) of section 8, or under rule 11 of Schedule I, shall be substituted ;

(ii) in sub-section (2), for the words "and to the appellant and the opposite party in the case of an appeal," the following shall be substituted, namely :—

"to the appellant in the case of an appeal under the proviso to sub-section (8) of section 8, or under rule 11 of Schedule I, of the Act, or to the appellant and the opposite party in the case of an appeal under sub-section (5) of section 8 of the Act " ;

(iii) for sub-rule (3), the following sub-rule shall be substituted, namely :—

"(3) When the hearing of an application or appeal is adjourned, the Board of Referees shall inform the Commissioner and also the applicant or appellant as the case may be, or, in the case of an appeal under sub-section (5) of section 8, of the Act, the appellant and the opposite party, of the time and place of the next hearing."

II. In the Schedule annexed to the said Rules, after Form E.P. 18, the following Forms shall be inserted, namely :—

For Forms *See* pages 154—156 of Part I of the *Gazette of India*, 1941.

No. 2-D.—The following extracts from rules made by the Income-tax Appellate Tribunal in exercise of the powers conferred on it by sub-section (8) of section 5A of the **Indian Income-tax Act, 1922** (XI of 1922), regulating its procedure and the procedure of Benches of that Tribunal are published for general information :—

2. In these rules, unless there is anything repugnant in the subject or context,—

(i) "Act" means the Indian Income-tax Act, 1922 (XI of 1922).

(ii) "Authorised Representative" means—

(a) a person duly authorised by the assessee to attend before the Tribunal under section 61 of the Act ;

(b) in the case of an appeal by the assessee, a person duly authorised by the respondent to represent him before the Tribunal ; and

(c) in the case of an appeal under sub-section (2) of section 33, a person duly authorised by the Income-tax Officer to represent him before the Tribunal ;

(iii) "Bench" means a Bench of the Tribunal constituted under sub-section (5) of section 5A of the Act ;

(iv) "Chief Ministerial Officer" at the headquarters of the Tribunal means the Superintendent, and at the headquarters of a Bench the Head Clerk ;

(v) "Full Bench" means a Bench of more than two members of the Tribunal ;

(vi) "Member" means a member of the Tribunal ;

(vii) "President" means the President of the Tribunal ;

(viii) "Province" means a Governor's Province or a Chief Commissioner's Province as defined by the Government of India Act, 1935, or any territorial jurisdiction treated as a separate entity for Income-tax statistical purposes ; and the expression "provincial" shall be construed accordingly ;

(ix) "Registrar" means the person who is for the time being discharging the functions of the Registrar of the Tribunal ;

(x) "Section 66 Reference Application" means an application under sub-section 1 of section 66 of the Act, requiring the Tribunal to refer to the High Court any question of law ;

(xi) "Signed" has the same meaning as in the General Clauses Act, 1897 (X of 1897) ;

(xii) "Third-Member Case" means a case referred by the President to a third member under sub-section (7) of section 5A of the Act on difference of opinion between the members of the original Bench ;

(xiii) "Tribunal" means the Appellate Tribunal constituted by the Central Government under section 5A of the Act.

PART III.

Headquarters and Places and Times of Sitting.

8. The Headquarters of the Tribunal shall be at Delhi.

9. (1) Out of the Benches constituted by the President from time to time under sub-section (5) of section 5A of the Act, one bench shall have its headquarters at the Headquarters of the Tribunal, one at Bombay, and one

at Calcutta. Each of these Benches shall hear and determine such appeals as are assigned to it by the President by a general or special order.

(2) Nothing in this Rule shall preclude a Bench from entertaining and determining any *interim* application that may be made direct to it.

10. The President may by a general order direct that all appeals from a particular area shall be heard and determined by a particular Bench, and on the making of any such order all appeals from that area shall, in the absence of a special order to the contrary, be heard and determined by that Bench.

11. Each Bench shall hear the appeals on its file at its headquarters; but may, in its discretion, hear all or any of the appeals from a particular Province at the Provincial Headquarters, or, at any other town which may appear to the Bench to be convenient.

12. The office of the Tribunal at Delhi, subject to any order by the President, shall be open daily from 10 A.M. to 4 P.M., except on Saturdays when the offices shall be open from 10 A.M. to 1 P.M.

13. The office of the Tribunal at Delhi shall observe the same holidays as are observed by the Civil Courts at Delhi.

The offices of the Benches having their headquarters at places other than Delhi shall, subject to any contrary order by the Bench concerned, observe the same office hours and holidays as are observed by the Civil Courts of their headquarters.

Provided that no case shall be heard or the attendance of a party required in a place on a day which is a local holiday in that place.

PART IV.

Presentation, Form, Registration and Notices of Appeals.

Presentation.

14. An appeal to the Tribunal shall be presented in person or by a representative to the Registrar at Delhi, or some officer authorised in this behalf by the Registrar.

Provided that an appeal which is received in the office of the Registrar by post within the prescribed period of limitation shall be deemed to have been validly presented.

15. The Registrar or some officer authorized by him in this behalf shall endorse on the memorandum of appeal the date on which an appeal is received in the office.

Form.

16. The Forms prescribed by the Central Board of Revenue when applicable, and where they are not applicable, forms of the like character, as nearly as may be, shall be used for all appeals referred to the Tribunal.

17. Every appeal shall be preferred in the form of a memorandum signed by the appellant and his authorised representative if any, and verified by the appellant.

18. The memorandum shall be written in English and shall set forth concisely and under distinct heads, on a separate Government water-marked foolscap size paper, the grounds of appeal without any argument or narrative; and such grounds shall be numbered consecutively.

19. The memorandum shall be accompanied by a certified copy of the order appealed from and a copy of the grounds of appeal.

20. Where a new fact which cannot be borne out by, or is contrary to, the record is alleged, it shall be stated clearly and concisely and supported by a duly sworn affidavit.

21. The appellant shall not, except by leave of the Tribunal, argue or be heard in support of any ground of objection not set forth in the grounds of

appeal; but the Tribunal, in deciding the appeal, shall not be confined to the grounds of objection set forth in the grounds of appeal or taken by leave of the Tribunal under this rule.

Provided that the Tribunal shall not rest its decision on any other ground unless the party who may be affected thereby has had a sufficient opportunity of contesting the case on that ground.

22. (1) Where the memorandum of appeal is not drawn up in the prescribed manner, it may be rejected, or, on such terms as the Tribunal may think fit, be returned to the appellant for the purpose of being amended within a time to be fixed by the Tribunal or be amended then and there.

(2) Where the Tribunal rejects any memorandum, it shall record the reasons for such rejection.

(3) Where a memorandum of appeal is amended, the Tribunal, or such officer as the Tribunal appoints in this behalf, shall sign or initial the amendment.

23. In an appeal by the assessee under sub-section (1) of section 33 of the Act, the officer or authority making the original order shall be made a respondent to the appeal.

24. In an appeal under sub-section (2) of section 33 of the Act, the party who was the appellant before the Appellate Assistant Commissioner shall be made a respondent to the appeal.

25. Where the memorandum of appeal is signed by an authorised representative, such representative shall annex to the memorandum of appeal the writing constituting his authority and his acceptance of it. The acceptance shall be signed and dated by the representative and shall state whether he is a lawyer, an accountant or an income-tax practitioner, or is a person who is a relative of, or regularly employed by, the assessee. If the representative is a person regularly employed by the assessee, he shall state the capacity in which he is at the time employed; if he is a relative of the assessee, he shall state his relationship with the assessee; and if he is an income-tax practitioner, he shall state his qualifications under clause (iv) of sub-section (2) of section 61 of the Act.

26. In the case of an appeal under sub-section (2) of section 33, the Income-tax Officer shall append a certificate to the memorandum of appeal that the appeal has been preferred under the direction of the Commissioner.

27. An authorised representative appearing for a party at the hearing of an appeal shall unless he has already filed his authority and his acceptance of it under rule 26, before the commencement of the hearing file his authority; and if the party by whom he has been appointed to represent is the assessee he shall also file his acceptance of the authority containing the particulars required by rule 26.

* * * * *

33. (1) A notice under these rules may be served on the person therein named either by post or, as if it were a summons issued by a Court, under the Code of Civil Procedure, 1908 (Act V of 1908).

(2) Any such notice may, in the case of a firm or a Hindu undivided family, be addressed to any member of the firm or to the manager, or any adult male member of the family and, in the case of any other association of persons be addressed to the principal officer thereof:

Provided that where a memorandum of appeal states that a Hindu undivided family, firm or other association of persons has appealed through a particular person, notice of the hearing of the appeal shall be served on that person;

and where the appeal is against such family, firm or association and a particular person is mentioned in the memorandum of appeal as the person representing the respondent family, firm or association, the notice shall also be served on that person.

34. If an authorised representative of a party has filed his authority in the appeal, the notice of the hearing of the appeal may be served on such representative.

PART V.

Hearing, Adjournment and Judgement.

35. On the day fixed, or on any other day to which the hearing may be adjourned, the appellant shall be heard in support of the appeal. The Bench shall then, if it does not dismiss the appeal at once, hear the respondent against the appeal, and in such case the appellant shall be entitled to reply.

36. Where on the day fixed, or any other day to which the hearing may be adjourned, the appellant does not appear when the appeal is called on for hearing, the appeal unless adjourned to some other day shall nevertheless be determined on the merits.

37. Where the appellant appears and the respondent does not appear when the appeal is called on for hearing, the appeal shall be heard *ex-parte*.

Adjournment.

38. The Bench may, (on such terms as it thinks fit) and at any stage adjourn the hearing of the appeal.

PART VI.

Applications for Reference.

44. Section 66 Reference application shall be in the prescribed form and shall be accompanied by a copy thereof.

45. Subject to the special provisions of this Part, the provisions of Parts III and IV of these rules shall apply to the presentation, notices and hearing of a Reference Application as if it were an appeal:

Provided that an authorised representative need not comply with the provisions of rule 26 if he has already filed his authority and its acceptance in the appeal which gives rise to the application.

46. Where the application is by the assessee, the opposite party to the appeal which gives rise to the application shall be made a respondent.

47. Where the application is by the Commissioner of Income-Tax, the assessee shall be made a respondent.

48. The application shall formulate in a concise form the question (or questions) of law that arises (or arise) and is (or are) required to be referred to the High Court and state the findings of fact which raise the question, or questions.

49. Where the correctness of a finding of fact is questioned on the ground that in arriving at that finding the Bench determining the appeal committed an error of law, the application shall state the precise error of law and allege what, but for that error of law, the finding ought to have been.

52. On the day fixed, or any other day to which the hearing may be adjourned, the Bench shall hear the applicant or his authorised representative in support of the application and may, without sending notice to the respondent, dismiss the application if it is of the opinion that no question of law arises out of the appellate order.

53. Where the Bench does not dismiss the application under rule 52, it shall send notice of the date of hearing the application to the respondent and require him to submit, within such time as it may fix, a reply in writing to the application.

54. The reply to the application shall specifically admit or deny whether the question formulated by the applicant arises out of the appellate order or not and whether it is a question of law or not. If the question formulated by the applicant is defective, the reply shall state in what particular the question is defective and what is the exact question of law which arises out of the appellate order. The reply shall be accompanied by a copy thereof.

55. On the day fixed for the hearing of the application or on any other day to which the hearing may be adjourned, the Bench shall, after perusing the application, the reply and the record, try to obtain from the parties an agreed statement of facts and the question involved.

56. If the parties agree to the question, the Bench shall consider whether such question does in fact arise out of the appellate order or not and whether the question is one of law or not.

57. If the Bench considers that the question agreed upon by the parties is a question of law and does arise out of the appellate order, the Bench shall draw up a statement of the case and together with the records send it to the headquarters of the Tribunal.

58. Where the parties are not agreed, the Bench shall decide whether the question formulated by the applicant does arise out of the appellate order and whether it is a question of law. If the Bench decides that the question formulated by the applicant does arise and is a question of law, it shall draw up a statement of the case and together with the records send it to the headquarters of the Tribunal.

59. Where the Bench is of the opinion that the question formulated by the applicant does not arise or that the question is not one of law, the Bench shall dismiss the application.

President's Standing Order No. 1.

In exercise of the powers conferred on him by sub-section (5) of section 5A, of the Income tax Act, 1922, and Rule 10 of the Appellate Tribunal Rules, the President directs that all appeals from the following Provinces, namely:—

Delhi,
United Provinces,
The Punjab,
North-West Frontier Province,
Sind,
British Baluchistan,
Mount Abu, and
Ajmer Merwara,

shall be heard and determined by the Delhi Bench; all appeals from the following Provinces, namely:—

Bengal,
Madras,
Assam,
Bihar,
Orissa,
Coorg, and
Civil and Military Station, Bangalore,

shall be heard and determined by the Calcutta Bench; and all appeals from the following Provinces, namely :—

Bombay, and

Central Provinces and Berar

shall be heard and determined by the Bombay Bench.

DEPARTMENT OF COMMERCE.

New Delhi, the 1st February 1941.

No. 23 (25)-Tr. (C. L.)/39.—In exercise of the powers conferred by sub-sections (2) and (3) of section 151 of the **Indian Companies Act, 1913** (VII of 1913), the Central Government is pleased to direct that the following additions and alterations shall be made in Form H in the Third Schedule to the said Act, namely :—

In the said Form—

(1) under the heading "Liabilities", below item 7 the following shall be inserted, namely :—

"Where a company is a holding company a statement showing how and to what extent the losses, if any, of the subsidiary companies have been provided for either in the accounts of the subsidiary companies or of the holding company or of both.

If it is not possible to obtain such information a statement to that effect giving the reasons therefor

NOTE.—So far as a holding company has any subsidiary company or companies operating in British India it shall disclose the particulars required under section 132-A in respect of such subsidiary company or companies."

(2) the brackets, words, figures and letter "(Where a company is a holding company then the Balance-Sheet shall disclose the particulars required by section 132-A)" at the end shall be omitted.

Published in the "*Gazette of India*", Part I, dated the 15th February, 1941.

HOME DEPARTMENT.

New Delhi, the 13th February 1941.

No. 21/52/40.—In exercise of the powers conferred by section 27 of the **Indian Arms Act, 1878** (XI of 1878), the Central Government is pleased to direct that the following further amendments shall be made in the Indian Arms Rules, 1924, namely :—

In Schedule I annexed to the said Rules, after item 12, the following items shall be inserted, namely :—

"(13) Officers of the Deccan States Joint Police Force, passing through British India on duty. Revolvers of .450 and .455 bores (Webley) and swords. Those contained in sections 13 to 15.

"(14) Members of the Deccan States Joint Police Force, passing through British India on duty. Muskets of .410 bore. Those contained in section 13 to 15.

EXTERNAL AFFAIRS DEPARTMENT.

New Delhi, the 13th February 1941.

No. 25-X.—In exercise of the powers conferred by the **Indian (Foreign Jurisdiction) Order in Council, 1902**, as applicable to the French Establishments in India by virtue of the Declaration of His Majesty in Council published with the notification of the Government of India in the External Affairs Department No. 24-X, dated the 13th February 1941, the Governor-General in Council is pleased to make the following Order, namely :—

The French Establishments in India (Application of Laws) Order, 1941.

1. (1) This Order may be called the French Establishments in India (Application of Laws) Order, 1941.

(2) It shall come into force at once.

2. In this Order,—

“Agreement” means the Agreement dated the 28th January 1941, between the Governor of the French Establishments in India of the one part and His Britannic Majesty's Consul General in the said Establishments acting on behalf of the Governor-General in Council of the other part ;

“French Establishments” means the French Establishments in India ;

“Indian Law” includes any law, ordinance, order, bye-law, rule or regulation passed or made at any time by any competent legislature, authority or person in British India.

3. All Indian laws for the time being in force in British India which are relatable whether directly or indirectly to—

(i) the imposition and enforcement of prohibitions or restrictions on the import or export of goods.

(ii) the levy of customs duties on the import or export of goods,

(iii) the levy of light-dues on vessels arriving at or departing from ports, and

(iv) the levy of any central excise duty on goods manufactured or produced in British India, shall, in so far as their application is required for the purposes of the Agreement, have effect in the French Establishments as if those Establishments were part of British India :

Provided that—

(i) the said Indian laws shall not be deemed to authorise any act not in conformity with the provisions of the Agreement ;

(ii) for the purpose of facilitating the application of the said Indian laws to, or in respect of, the French Establishments, any court or authority may construe the provisions thereof with such alterations not affecting the substance as may be necessary or proper in order to adapt them to the matter before that court or authority.

FINANCE DEPARTMENT (CENTRAL REVENUES).

New Delhi, the 15th February 1941.

No. 3.—In exercise of the powers conferred by section 11 of the Sugar (Excise Duty) Act, 1934 (XIV of 1934), the Central Government is pleased to direct that the following further amendments shall be made in the Northern India Sugar (Excise Duty) Order, 1938, namely:—

In the said Order—

(1). In clause 2, after sub-clause (ix), the following sub-clauses shall be inserted, namely:—

(x) “Chemical Examiner” means the Chemical Examiner, Central Excises and Salt Department, North-Western India/North Eastern India.

(xi) “Maund” means the standard maund equal to 82 $\frac{2}{7}$ pounds avoirdupois.

(2) For clause 8, the following clause shall be substituted, namely:—

“8. (1) No sugar shall be issued from a factory except under a gate pass in the following form signed by the owner of the factory :—

(a) Name and address of factory.

(b) Serial number of pass.

(c) Date and time of issue.

(d) Number of bags issued.

- (e) Average weight in maunds and seers of sugar in each bag.
- (f) Total weight of sugar issued.
- (g) Name of consignee.
- (h) Destination of consignment.
- (i) Name of booking and receiving stations in the case of consignment booked by rail or steamer.
- (j) Number of lorries, carts, pack animals or boats employed.
- (k) Signature of owner.

The gate pass shall be made out in triplicate, of which one copy shall be retained by the owner and filed in his office, one copy shall accompany the consignment to its destination and the third copy shall be sent without delay to the Inspector.

(2) If all the bags comprising a consignment are despatched in one lot at any one time, only one gate pass shall be made out in respect of the consignment. If, however, a consignment is split up into two or more lots, each of which is despatched separately either on the same day or on different days, a separate gate pass shall be made out in respect of each such lot. In case a consignment is loaded on more than one lorry, cart, boat or pack animal and the vehicles or pack animals carrying the consignment do not travel together but separately or at intervals, a separate gate pass shall be made out in respect of each vehicle, vessel or pack animal.

(3) Gate passes shall be serially numbered, the serial number running for the whole year commencing from any date and month convenient to individual owners of factories. Gate pass books shall also be serially numbered and only one gate pass book shall be used at any one time.

(4) Any breach of the provisions of sub-clauses (1), (2) and (3) shall be punishable with fine which may extend to one thousand rupees.

(3) For clause 10, the following clause shall be substituted, namely :

"10. Every owner of a factory shall give prompt intimation by registered post to the Inspector and the Chemical Examiner of the commencement and completion of manufacture in his factory, both before commencement and after completion."

(4) For clause 25, the following clause shall be substituted, namely :—

"26. Every owner of a factory, who issues or otherwise disposes of any cane juice, syrup, light or heavy molasses or massecuite shall furnish the following information to the Inspector within 24 hours of the issue, namely, the kind and quantity of substance issued, its analytical particulars and sugar value calculated according to the standard formula given below and the destination and purpose for which issued. Any breach of this rule shall be punishable with fine which may extend to two thousand rupees."

Formula.

Recoverable sugar in any sugar house
product per unit weight of dry
substance in the material

$$= \frac{S (J-M)}{(S-M)}$$

Where S is equal to purity of sugar produced,

& " J " " " " " material used.
" M " " " " " the final or waste molasses."

CENTRAL BOARD OF REVENUE.

New Delhi, the 15th February, 1941.

No. 7.—In exercise of the powers conferred by section 27 of the Excess Profits Tax Act, 1940 (XV of 1940), the Central Board of Revenue directs

that the following amendments shall be made in the Excess Profits Tax Rules, 1940, the same having been previously published as required by sub-section (3) of the said section, namely :—

I. In the said Rules—

(1) After rule 13, the following rules shall be inserted, namely :—

17A. "*Time for appeal under section 19 (2).*—An appeal to the Appellate Tribunal under sub-section (2) of section 19 of the Act, against an order of the Appellate Assistant Commissioner of Excess Profits Tax under Section 16 or 17 of the Act shall be made at any time before the expiry of sixty days from the date of such order."

17B. "*Procedure on appeal under Section 19 (2).*—The procedure to be followed on an appeal to the Appellate Tribunal under the Act, shall be the same, as nearly as may be, as that prescribed in respect of appeals to that Tribunal under the Income-tax Act."

15A. "*Forms of appeal to the Appellate Tribunal.*—An appeal under sub-section (2) of section 19 of the Act shall, in the case of an appeal against—

(a) an order of the Excess Profits Tax Officer under Section 8, except an order making an apportionment under sub-section (5) or a modification under sub-section (8), be in Form E. P. 9 (T);

(b) an order of the Excess Profits Tax Officer under sub-section (1) of Section 14 of the Act be in Form E. P. 10/13 (T);

(c) an order of the Excess Profits Tax Officer imposing a penalty under sub-section (1) of the applied section 46, be in Form E.P. 11 (1) (T);

(d) an order of the Excess Profits Tax Officer imposing a penalty under sub-section (3) of section 10 of the Act, be in Form E.P. 11 (T);

(e) an order of the Excess Profits Tax Officer, the Appellate Assistant Commissioner or the Commissioner imposing a penalty under section 16 of the Act, be in Form E.P. 11/13 (T);

(f) an order of the Excess Profits Tax Officer under section 7 of the Act, granting or refusing to grant relief in respect of a deficiency, be in Form E.P. 12 (T);

(g) an order of the Excess Profits Tax Officer granting or refusing to grant relief in respect of double excess profits taxation under section 11 of the Act, be in Form E.P. 12 (1) (T).

II. At the end of the Schedule attached to the said Rules the following Forms shall be added, namely :—

For Forms See pages 217—221 of Part I of the *Gazette of India*, 1941.

Published in the "*Gazette of India*", Part I, dated the 22nd February 1941.

HOME DEPARTMENT.

New Delhi, the 18th February 1941.

No. 21/34/40.—In exercise of the powers conferred by section 3 of the **Registration of Foreigners Act, 1939** (XVI of 1939), the Central Government is pleased to direct that the following further amendments shall be made in the Registration of Foreigners Rules, 1939, the same having been previously published as required by the said section, namely:—

In Rule 15 of the said Rules:—

(a) in sub-rule (1), for the words and figures, "shall, on making the report required by rule 11, produce" the following shall be substituted, namely:—

"shall, unless, being a tourist, his case is governed by sub-rule (1B), produce at the time of making the report under rule 11";

(b) in sub-rule (1A) for the words and figures "shall on making the report required by rule 11 surrender" the following shall be substituted, namely:—

"shall, unless, being a tourist, his case is governed by sub-rule (1B), surrender at the time of making the report required by rule 11";

(c) after sub-rule (1A), the following sub-rule shall be inserted, namely:—

"(1B) Every tourist shall, subject to the provisions of sub-rule (3), on his departure from British India, surrender his certificate of Registration—

(a) if he departs on board any vessel, to the Registration Officer of the place from which the vessel leaves British India or to such authority as the said Officer may appoint in this behalf; and

(b) if he departs from British India by land, to the Registration Officer having jurisdiction at the place from which he departs from British India";

(d) in sub-rule (3), for the words, brackets, figures and letter "Nothing in sub-rule (1) or sub-rule (1A)" the following shall be substituted, namely:—

"Nothing in sub-rule (1), (1A), or (1B)".

DEPARTMENT OF COMMERCE.

New Delhi, the 22nd February 1941.

No. 23(12)/A-Tr. (C.L.)/37.—In pursuance of section 249 of the **Indian Companies Act, 1913** (VII of 1913), the Central Government is pleased to direct that with effect from the 1st April 1941, the fees payable in respect of the matters specified in items 6 and 8 of Parts I and II respectively of Table B in the First Schedule to the said Act shall be rupees three.

No. 23(12)/B-Tr. (C.L.)/37.—In exercise of the powers conferred by section 151 of the **Indian Companies Act, 1913** (VII of 1913), the Central Government is pleased to make the following rules, namely:—

The Indian Companies Rules, 1941.

1. *Short title, commencement and repeal.*—(1) These rules may be called the Indian Companies Rules, 1941.

(2) They shall come into force on the 1st day of April 1941.

(3) The Indian Companies Rules, 1914, are hereby cancelled:

Provided that the cancellation shall not affect the validity of anything done under or in pursuance of the said Rules, and in particular, shall not

be deemed to require the re-making of any instrument in the appropriate form prescribed by these rules.

2. (1) In these rules, the "Act" means the Indian Companies Act, 1913 (VII of 1913).

(2) For the purposes of these rules, the Registrar shall be the sole authority to decide whether an officer of a company is a "responsible Officer of the Company" or not.

3. *Verification of copies of contracts under section 104.*—Copies of contracts required to be filed with the Registrar under section 104 of the Act shall be verified—

(i) by an affidavit of a responsible officer of the Company that they are true copies, or

(ii) by certification of public officers under section 76 of the Indian Evidence Act, 1872 (I of 1872).

4. *Verification of copies under sections 109, 109A and 110.*—A copy of an instrument or deed filed with the Registrar for registration under section 109, section 109A or section 110 of the Act shall be verified:—

(i) where the mortgage or charge comprises solely property situate outside British India, by a certificate under the seal of the Company or under the hand of some person interested therein otherwise than on behalf of the Company, that it is a true copy;

(ii) in other cases, by an affidavit of a responsible officer of the Company that it is a true copy or by a certificate of a public officer under section 76 of the Indian Evidence Act, 1872 (I of 1872).

5. *Manner of giving notice under section 153B.*—The notice required by section 153B of the Act to be given by the transferee company shall be given to the dissenting shareholder either personally, or by sending it by registered post to his address registered in the books of the transferor company, or (if he has no address within British India so registered) to the address, if any, within British India supplied by him to the transferor company for the giving of notice to him.

6. *Certification of documents under section 277 of the Act.*—A copy of a document required to be certified under sub-section (1) of section 277 of the Act shall—

(i) in the case of a Company incorporated in a country outside His Majesty's dominions, be

(a) duly certified as a true copy by an official of the Government to whose custody the original is committed, the signature or seal of such official being authenticated by any of the British officials mentioned in section 6 of the Commissioners of Oaths Act, 1889 (52 and 53 Vict., c. 10), or in any Act amending the same, or

(b) by a Notary of such country, the certificate of the Notary being authenticated by any of the British officials as aforesaid, or

(c) by some officer of the company before a person having authority to administer an oath as provided by Section 3 of the said Oaths Act, the status of the person administering the oath being authenticated by any of the British officials as aforesaid; and

(ii) in the case of a Company incorporated in any part of His Majesty's dominions,

(a) be duly certified as a true copy by an official of the Government to whose custody the original is committed, or

(b) by a Notary Public of such place, or
 (c) on oath by an officer of the Company before a person having authority to administer an oath in such place.

7. *Certification of translations under section 277 or section 277B.*—Translations of documents required to be filed with the Registrar under section 277 or section 277B of the Act shall be certified as correct translations,—

(i) where such translation is made outside of British India,
 (a) by an official having custody of the original, or
 (b) by a Notary Public of the country or place where the Company is incorporated :

Provided that where the Company is incorporated in a country outside His Majesty's dominions, the signature or seal of the person so certifying shall be authenticated by any of the British officials mentioned in section 6 of the Commissioners of Oaths Act, 1889 (52 and 53 Vict., c. 10), or in any Act amending the same ;

(ii) where such translation is made in British India—
 (a) by an advocate, attorney or pleader entitled to appear before the High Court, or
 (b) by an affidavit of some person having, in the opinion of the Registrar, a competent knowledge of the language of the original and of English.

8. *Power of Central Government to relax rules 6 and 7.*—The Central Government may in any particular case if it thinks fit and upon such conditions as it may impose, permit copies or translations not certified in accordance with rules 6 and 7 to be filed with the Registrar.

9. *Time for filing alterations of particulars under section 277.*—Notice of any alteration which is required by sub-section (1) of section 277 of the Act to be filed with the Registrar shall be filed within one month of the date on which the notice could in due course of post, and if despatched with due diligence, have been received by the Registrar from the place where the Company is incorporated.

10. *Translations of documents other than those under section 277.*—If any portion of any document required to be filed under any provision of the Act other than section 277 is not in the English language, a translation thereof, certified by a responsible officer of the Company to be correct, shall be furnished along with each copy deposited with the Registrar :

Provided that the Registrar may exempt any Company from the operation of this rule in respect of such documents as he may think fit.

11. *Forms.*—The forms set forth in the Schedule hereto annexed or forms as near thereto as circumstances admit shall be used in all matters to which these forms relate.

12. *Payment of fees.*—All fees payable under the Act shall be paid in cash.

THE SCHEDULE.

[For Forms I to XLVII, see pages 254 to 309 of Part I of the *Gazette of India*, 1941—*Editor*.]

New Delhi, the 22nd February 1941.

No. 4-W. R. I/41.—In exercise of the powers conferred by section 14 of the **War Risks (Goods) Insurance Ordinance, 1940** (No. IX of 1940), the Central Government is pleased to direct that the following

further amendment shall be made in the War Risks (Goods) Insurance Rules, 1940, namely :—

In rule 11 of the said Rules, after the words "shall take effect from" the words "the date of" shall be inserted; and to the said rule the following shall be added, namely :—

"or on and from the date given in the application as the date on which the insurance is to commence, whichever is later."

Published in the "*Gazette of India*", Part I, dated the 1st March 1941.

DEPARTMENT OF EDUCATION, HEALTH AND LANDS.

New Delhi, the 27th February 1941.

No. F. 3-36 (15)/40-A.—In exercise of the powers conferred by section 3 of the **Agricultural Produce (Grading and Marking) Act, 1937**, (I of 1937), the Central Government is pleased to direct that the following amendments shall be made to the **Agricultural Produce (Grading and Marking) (Hides) Rules, 1937**, the same having been previously published as required by the said section, namely :—

I. In the said Rules—

(a) In rule 1 for the words, brackets and figures "Agricultural Produce (Grading and Marking) (Hides) Rules, 1937", the words and figures "Hides Grading and Marking Rules, 1937" shall be substituted.

(b) In rules 2 and 3 for the words "of the Schedule", the words and figure "of Schedule I", shall be substituted.

(c) For rules 4 and 5 the following rules shall be substituted, namely :—

4. **Grade Designation Marks.**—The grade designation mark shall be indicated by 2, 3 or 4 holes of $\frac{1}{4}$ " diameter, representing A, B or C grades respectively.

5. **Method of Marking.**—The holes shall be punched on each hide at the root of the tail at a distance of $\frac{1}{4}$ " from each other and shall be arranged as shown in Schedule II. A lead seal bearing the word Agmark on one side and a letter representing one of the weight groups namely H, M, L or C, as the case may be, on the other, shall be secured to each hide by a piece of twine tag which should be passed through all the holes. The place of packing shall also be indicated on the lead seal in code letters."

II. The Schedule annexed to the said Rules shall be numbered as Schedule I, and after that Schedule as so numbered, the following Schedule shall be inserted, namely :—

"SCHEDULE II.

* * * * *

[For Schedule II, see page 338 of Part I of the *Gazette of India*, 1941—*Editor*.]

Published in the "*Gazette of India*", Part I, dated the 8th March 1941.

FINANCE DEPARTMENT (CENTRAL REVENUES).

New Delhi, the 1st March 1941.

No. 5.—In exercise of the powers conferred by section 18 of the **Matches (Excise Duty) Act, 1934** (XVI of 1934), the Central Government is pleased to direct that the following further amendments shall be made in the **Matches (Excise Duty) Order, 1934**, namely :—

In the said Order—

1. In clause 24 for the word "four", the word "eight" shall be substituted.

2. In sub-clause (2) of clause 42, (i) in the column headed "Price of Banderol", for the words "one rupee", "one rupee and eight annas", "two rupees" and "five annas", the words "two rupees", "three rupees", "four rupees" and "ten annas" respectively, shall be substituted, and (ii) entry 5 shall be omitted.

No. 6.—In exercise of the powers conferred by section 18 of the **Matches (Excise Duty) Act, 1934** (XVI of 1934), the Central Government is pleased to direct that the following further amendments shall be made in the Northern India Matches (Excise Duty) Order, 1936, namely :—

In the said Order—

1. In clause 25 for the word "four", the word "eight" shall be substituted.

2. In sub-clause (2) of clause 45—

(i) in the column headed "Price of Banderol", for the words "one rupee", "one rupee and eight annas", "two rupees" and "five annas", the words "two rupees", "three rupees", "four rupees" and "ten annas" respectively shall be substituted, and

(ii) entry 5 shall be omitted.

CENTRAL BOARD OF REVENUE.

New Delhi, the 8th March 1941.

No. 9.—In exercise of the powers conferred by section 27 of the **Excess Profits Tax Act, 1940** (XV of 1940), the Central Board of Revenue directs that the following amendment shall be made in the Excess Profits Tax Rules, 1940, the same having been previously published as required by sub-section (3) of the said section, namely :—

In the Schedule annexed to the said Rules, in Form E. P. 1, after the sub-paragraph "(d) in the case of transfer of business after 1st April 1936 and before 1st September 1939 : [See Notes for Guidance, Notes 11 (V)]" the following sub-paragraph shall be inserted, namely :—

"(e) for the exclusion from the average capital of the standard period of inherently unproductive assets under Rule 7 of Schedule II : [See Notes for Guidance, Note 9]."

Published in the "*Gazette of India*", Part I, dated the 15th March, 1941.

FINANCE DEPARTMENT (CENTRAL REVENUES).

New Delhi, the 15th March 1941.

No 7.—In exercise of the powers conferred by Chapter IX-A of the **Indian Income-tax Act, 1922** (XI of 1922), the Central Government directs that the following further amendments shall be made in the Indian Income-tax (Provident Funds Relief) Rules, the same having been previously published as required by sub-section (1) of section 58-L, read with sub-section (4) of section 59 of the said Act, namely :—

1. In rule 4 of the said Rules—

(a) in sub rule (1)—

(i) after clause (d) the following proviso shall be inserted, namely :—

"Provided, however, that at the discretion of the trustees of the fund the condition of such house or site being assigned to the trustees of the fund may be waived in the case of an employee whose income under the head "salaries" does not exceed Rs. 1,500 per annum."

(ii) in clause (e) after the word "fund" the words "or at their discretion deposited with them" shall be inserted.

(3) sub-rule (3) shall be lettered as clause (a) of that sub-rule and in that clause as so lettered after the word, brackets and letter "clause (d)" the words, brackets and letter "or clause (e)" shall be inserted.

(c) after clause (a) of sub-rule (3) as so lettered, the following clauses shall be inserted, namely :—

"(b) In the case of withdrawal for the purpose specified in clause (e) of sub-rule (1) the restriction imposed by clause (a) of sub-rule (3) shall apply to each withdrawal and not to total withdrawals."

"(c) In the case of withdrawal by an employee falling within the proviso to clause (b) of sub-section (1) of section 58C the 'pay' referred to in clause (a) of sub-rule (3) shall mean the pay (including increments, if any) which the employee would have received had he not entered His Majesty's Forces or been taken into or employed in the national service."

(d) for sub-rule (4) the following sub-rule shall be substituted, namely :—

"(4) (a) Save as in clauses (b), (c), (d) and (e) a second withdrawal shall not be permitted until the sum first withdrawn has been fully repaid,

(b) A withdrawal may be permitted for the purpose specified in clause (e) of sub-rule (1) notwithstanding that the sum withdrawn for any other purpose has not been repaid,

(c) Subsequent withdrawals for the purpose specified in clause (e) of sub-rule (1) may be permitted notwithstanding that the sums previously withdrawn for the same purpose have not been repaid,

(d) A withdrawal for any one of the purposes of sub-rule (1) other than that specified in clause (e) of that sub-rule may be permitted notwithstanding that the sums withdrawn for the purpose of clause (e) of the same sub-rule have not been repaid,

(e) A withdrawal for any one of the purposes of sub-rule (1) other than those specified in clauses (d) and (e) of that sub-rule shall be permitted notwithstanding that the sum withdrawn for the purpose of clause (d) of the same sub-rule has not been repaid."

(2) In sub-rule (2) of rule 5 of the said Rules, after the words and figure "rule 6 and" the words, brackets and figures "subject to the provisions of sub-rule (4) of rule 4" shall be inserted.

CENTRAL BOARD OF REVENUE.

New Delhi, the 15th March, 1941.

No. 8.—In exercise of the powers conferred by Chapter IXA of the **Indian Income-tax Act, 1922** (XI of 1922), the Central Board of Revenue directs that the following further amendment shall be made in the **Indian Income-tax (Provident Funds Relief) (Central Board of Revenue) Rules**, the same having been previously published as required by sub-section (1) of section 58-L read with sub-section (4) of section 59 of the said Act, namely :—

In rule 7 of the said Rules, after the words "fifteenth day of June in each year" the words "or any other subsequent date fixed by the Income-tax Officer" shall be inserted.

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HOME DEPARTMENT.

New Delhi, the 19th March 1941.

No. 24/9/40.—In exercise of the powers conferred by sub-section (2) of section 3 of the **Maintenance Orders Enforcement Act, 1921** (XVIII of 1921), the Central Government is pleased to declare that the said Act shall apply in respect of the State of Orissa.

FINANCE DEPARTMENT (CENTRAL REVENUES).

New Delhi, the 22nd March, 1941.

No. 12.—In pursuance of sub-clause (2) of clause 2 of the **Steel Ingots (Excise Duty) Order, 1934**, the Central Government is pleased to direct that the notification of the Government of India in the Finance Department (Central Revenues) No. 34-Central Excises, dated the 27th October 1934, shall be cancelled.

No. 13.—In exercise of the powers conferred by section 9 of the **Iron and Steel Duties Act, 1934** (XXXI of 1934), the Central Government is pleased to direct that the following further amendments shall be made in the **Steel Ingots (Excise Duty) Order, 1934**, and the **Northern India Steel Ingots (Excise Duty) Order, 1938**, namely:—

In the said Orders—

(i) for the words "Metallurgical Inspector, Jamshedpur" and "Metallurgical Inspector, Tatanagar" wherever they occur the words "Controller of Inspection (Metallurgical), Tatanagar" shall be substituted; and

(ii) for the word "Metallurgical Inspector" wherever they occur the words "Controller of Inspection (Metallurgical)" shall be substituted.

No. 2.—In exercise of the powers conferred by clause (a) of section 9 of the **Indian Stamp Act, 1899** (II of 1899) the Central Government has been pleased to reduce the duty chargeable under the said Act on a bill of exchange or a promissory note made or drawn in British India and payable in the areas mentioned in the Schedule hereto attached where payable otherwise than on demand, but not more than one year after date or sight, to two annas for every one thousand rupees or part thereof of the amount of the bill or the promissory note.

SCHEDULE.

AREAS.

1. The Baluchistan Tribal Areas, namely,
 - (a) The Kohlu Tahsil.
 - (b) The Loralai District.
 - (c) The Zhob District.
 - (d) The Dalbandin Tahsil in Chagai District.
 - (e) The Marri and Bugti Country.
2. The Baluchistan Leased Areas, namely,
 - (a) The Quetta District.
 - (b) The Nasirabad Tahsil.
 - (c) The Bolan, Nushki and Kachhi Railway District.
 - (d) The Nushki Tahsil in the Chagai District.
3. The District of Abu.
4. The Cantonments of Mhow and Neemuch, the Civil Lines of Nowgong, and the Indore Residency Area, in the Central India Agency and the Bhopal Agency Area.
5. The Baroda Cantonment.
6. Railway lands within the limits of the Central India and Rajputana Agencies over which the Crown Representative exercises jurisdiction.
7. The areas in the Hyderabad State over which the Crown Representative exercises jurisdiction.
8. The Civil and Military Station of Bangalore.
9. Railway lines in the Mysore State over which the Crown Representative exercises jurisdiction.

10. Railway lands in States within the political charge of
 - (a) the Resident for Kolhapur and the Deccan States ;
 - (b) the Resident for Baroda and the Gujarat States ; and
 - (c) the Resident for the States of Western India, over which the Crown Representative exercises jurisdiction and to which the provisions of the Indian Stamp Act, 1899, have been applied.
11. Railway lines in Jammu and Kashmir and in States within the political charge of the Resident for the Punjab States, over which the Crown Representative exercises jurisdiction.
12. The Kolhapur Residency Area, and Wadi Jagir.
13. The Gilgit Sub-division.

DEPARTMENT OF COMMERCE.

New Delhi, the 22nd March, 1941.

No. 8-W. R. 1/41.—In exercise of the powers conferred by section 14 of the **War Risks (Goods) Insurance Ordinance, 1940** (No. IX of 1940), the Central Government is pleased to direct that the following further amendment shall be made in the War Risks (Goods) Insurance Rules, 1940, namely :—

In rule 11 of the said Rules, the words "the date of" where they first occur, shall be omitted

No 9-W. R. 1/41.—In exercise of the powers conferred by section 14 of the **War Risks (Goods) Insurance Ordinance, 1940** (No. IX of 1940), the Central Government is pleased to direct that the following further amendments shall be made in the War Risks (Goods) Insurance Rules, 1940, namely :—

I. In the said Rules—

(a) in rule 2, after clause (iv) the following clause shall be inserted, namely :—

"(v) "Fund" means the fund referred to in sub-section (1) of section 9 as the War Risks (Goods) Insurance Fund."

(b) after rule 15, the following rule shall be inserted, namely :—

"16. An account of all sums received into and paid out of the Fund shall be prepared in the Form set forth in the Fourth Schedule to these rules and shall be published annually."

II. In the Schedules appended to the said Rules after the Third Schedule, the following Schedule shall be inserted, namely :—

For Forms See page 413 of Part I of the *Gazette of India*, 1941.

No. 10-W. R. 1/41.—In exercise of the powers conferred by section 14 of the **War Risks (Goods) Insurance Ordinance, 1940** (No. IX of 1940), the Central Government is pleased to direct that the following further amendments shall be made in the War Risks (Goods) Insurance Rules, 1940 namely :—

In the said Rules—

(a) for rule 7, the following rule shall be substituted, namely :—

"7. The amount of premium payable under the first policy of insurance issued under the Scheme to any person in respect of any quarter, or part of a quarter, shall not be less than five rupees in the case of a policy issued for a period not exceeding one month, or less than ten rupees in the case of a policy issued for a period exceeding one month :

Provided that the amount of premium payable under any subsequent policy issued under the Scheme to the same person in respect of the same quarter, or a part of the same quarter, shall not be less than two rupees and eight annas."

(b) the proviso to rule 12 shall be omitted.

No. 11-W. R. 1/41.—In exercise of the powers conferred by section 14 of the **War Risks (Goods) Insurance Ordinance, 1940** (No. IX of 1940), the Central Government is pleased to direct that the following further amendment shall be made in the War Risks (Goods) Insurance Rules, 1940, namely:—

To sub-rule (1) of rule 5 of the said Rules, the following shall be added, namely:—

"or during the quarter ending on the 30th June, 1941 at the rate of one sixteenth per cent. per month or part of a month."

DEPARTMENT OF LABOUR.

New Delhi, the 19th March 1941.

No. A.-801.—In exercise of the powers conferred by section 7 of the **Delhi Laws Act, 1912** (XIII of 1912), the Central Government is pleased to extend to the Province of Delhi the **Bombay Lifts Act, 1939** (Bombay Act X of 1939), subject to the following modifications, namely:—

1. References wherever they occur to the Provincial Government shall be construed as references to the Chief Commissioner.

2. In sub-section (1) of section 2, for the word "Bombay" the word "Delhi" shall be substituted; and to the said sub-section, the following proviso shall be added, namely:—

"Provided that except in so far as the Chief Commissioner may otherwise direct, nothing in this Act shall apply to any lift in any building maintained by the Public Works Department or the Military Engineer Services";

3. In sub-section (1) of section 9, the words "in the City of Bombay to the Commissioner of Police and elsewhere" shall be omitted.

Published in the "*Gazette of India*", Part I, dated the 29th March, 1941.

HOME DEPARTMENT.

New Delhi, the 26th March, 1941.

No. 107/40.—In pursuance of rules 2, 8 and 8B of Order XXVII of the First Schedule to the **Code of Civil Procedure, 1908** (Act V. of 1908), the Central Government is pleased to authorise the persons specified in the second column of the Schedule annexed hereto to act in any court in the Province specified in the corresponding entry in the first column of the said Schedule, for the Crown in respect of all judicial proceedings by or against the Secretary of State or the Central Government other than those relating to the Eastern Bengal, East Indian, Great Indian Peninsula or North Western Railway or the State Railways Coal Department, and for a public officer in the service of the Central Government in respect of all suits against such public officer, the defence of which is undertaken by the Central Government.

Schedule.

Province	Officers.
Madras	1. Government Pleader, High Court at Madras. 2. District Government Pleaders.
Bombay	1. Government Pleader, High Court at Bombay. 2. District Government Pleaders.

Bengal ...

3. Solicitor to the Central Government at Bombay.
4. Mr. S. Narayanaiah, Advocate, Bombay.

The United Provinces.

1. Solicitor to the Central Government at Calcutta
2. District Government Pleaders.
1. The Standing Counsel, High Court at Allahabad.
2. The Junior Standing Counsel, High Court at Allahabad.
3. The Government Advocate, Chief Court of Oudh.
4. The Assistant Government Advocate, Chief Court of Oudh.
5. Government Pleaders.

The Punjab ...

Bihar ...

The Central Provinces ...

Assam ...

North-West Frontier Province ...

Orissa ...

Sind ...

Government Pleaders.

1. Government Pleader, Chief Court of Sind.
2. District Government Pleaders.
3. Assistant District Government Pleaders.

FINANCE DEPARTMENT.

New Delhi, the 27th March 1941.

No. D. 3085-F.—In pursuance of sub-section (6) of section 42 of the Reserve Bank of India Act, 1934 (II of 1934), the Central Government is pleased to direct the inclusion in the Second Schedule to the said Act of the following bank, namely:—

International Bank of India, Ahmedabad.

FINANCE DEPARTMENT (CENTRAL REVENUES).

New Delhi, the 29th March 1941.

No. 13.—In exercise of the powers conferred by sub-section (1) of section 60 of the Indian Income-tax Act, 1922 (XI of 1922), the Central Government is pleased to direct that the following further amendment shall be made in the notification of the Government of India in the Finance Department No. 878-F., dated the 21st March 1922, namely:—

In paragraph (a) of the said notification, the clause (10-F) shall be omitted.

CENTRAL BOARD OF REVENUE.

New Delhi, the 29th March 1941.

No. 14.—In pursuance of clause (8) of section 2 of the Excess Profits Tax Act, 1940 (XV of 1940), the Central Board of Revenue declares all foreign associations which are for the time being declared to be "companies" under clause (6) of section 2 of the Indian Income-tax Act, 1922 (XI of 1922), to be "companies" for the purposes of the first-mentioned Act.

Published in the "Gazette of India", Extraordinary, dated the 1st April, 1941.

DEPARTMENT OF COMMERCE.

New Delhi, the 1st April, 1941.

No. 12-W.R.I./41.—In exercise of the powers conferred by section 14 of the War Risks (Goods) Insurance Ordinance, 1940 (No. IX of 1940),

the Central Government is pleased to direct that the following further amendment shall be made in the War Risks Goods Insurance Rules, 1940, namely:

In the Third Schedule appended to the said Rules, under the sub-heading "Instructions" for Instructions 9 and 10, the following Instructions shall be substituted, namely:—

"9. *Rate of Premium.*—The present rate of premium is 1/16 per cent. (one anna per hundred rupees) per month or part of a month.

10. *Calculation of Premium.*—On insurances effected during the months of April, July, October and January three months' premium will be payable, i.e. 3/16 per cent. (three annas per hundred rupees). On insurances effected during the months of May, August, November and February two months' premium will be payable, i.e. 2/16 per cent. (two annas per hundred rupees). On insurances effected during the months of June, September, December and March one month's premium will be payable, i.e. 1/16 per cent. (one anna per hundred rupees)."

Published in the "*Gazette of India*", Part I, dated the 5th April, 1941.

CENTRAL BOARD OF REVENUE.

New Delhi, the 5th April, 1941.

No. 14.—In exercise of the powers conferred by sub-section (1) of section 59 of the **Indian Income-tax Act, 1922** (XI of 1922), the Central Board of Revenue directs that the following further amendments shall be made in the Indian Income-tax Rules, 1922, the same having been previously published as required by sub-section (4) of the said section, namely:—

In the Form of return of total income and total world income for individuals, Hindu undivided families, companies, local authorities, firms and other associations of persons required under sub-section (1) or (2) of section 22 set forth in sub-rule (1) of rule 19 of the said Rules—

(1) in the heading above Part I, an asterisk (*) shall be inserted against the word 'Status' and connected with the following foot-note, namely:—

*Please state here whether the assessee is Individual, Hindu undivided family, Firm, Company, Local authority or an Association of persons.

(2) In Part VI—Income from Property—

(a) in column 14 after the word "property" the following shall be added, namely:—

"or interest on capital borrowed for acquiring, constructing, repairing, renewing or reconstructing property".

(b) for the entries in columns 18, 20 and 21 the following entries, respectively, shall be substituted, namely:—

"18. Amount claimed on account of the property remaining vacant".

"20. Total for columns 12 to 18".

"21. Net annual value assessable after deducting column 20 from column 11".

(c) at the end of the said Part, a dagger (†) shall be inserted after the word 'Status' appearing under 'Signature' below the declaration and for the "Note" the following Notes shall be substituted, namely:—

*Note 1.—The alternatives which are not required in the declaration should be scored out.

†Note 2.—The declaration shall be signed—

(a) in the case of an individual by the individual himself;

(b) in the case of a Hindu undivided family by the Manager or *Karta*;

(c) in the case of a company or local authority by the principal

(d) in the case of a firm by a partner; and

(e) in the case of any other association by a member of the association.

The signatory should satisfy himself that the return is complete in every respect before signing the verification.

DEPARTMENT OF COMMERCE.

New Delhi, the 5th April, 1941.

No. 24 (48) Tr. (C.L.)/38 (i).—In pursuance of sub-section (1) of the **Indian Companies (Amendment) Act, 1940** (XXXV of 1940), the Central Government is pleased to appoint the 5th April 1941 on which the said Act shall come into force.

No. 24 (49)-Tr. (C.L.)/38 (ii).—In exercise of the powers conferred by sub-section (2) and the proviso to sub-section (5) of section 2 of the **Indian Companies Act, 1913** (VII of 1913), the Central Government is pleased to—

(1) appoint the Provincial Registrars of Joint Stock Companies as officers for the purposes of the said section of the said Act, and

(2) prescribe the Form in the Schedule hereto annexed to be used in the said section of the said Act.

For Schedule see page 474 of Part I of the *Gazette of India*, 1941.
DEFENCE DEPARTMENT.

New Delhi, the 5th April, 1941.

No. 540.—In exercise of the powers conferred by section 1 of the **Indian Soldiers (Litigation) Act, 1925** (IV of 1925), the Central Government, after consulting the High Courts concerned, is pleased to direct the following amendment shall be made in the **Indian Soldiers (Litigation) Rules, 1938**, namely:—

For Forms A, B, C and D set forth in the Schedule to the said Act, the following Forms shall be substituted, namely:—

For Schedule see page 487 of Part I of the *Gazette of India*, 1941.
DEPARTMENT OF COMMUNICATIONS.

New Delhi, the 1st April, 1941.

No. I-A./3-41.—In exercise of the powers conferred by section 1 of the **Indian Aircraft Act, 1934** (XXII of 1934), the Central Government is pleased to direct that the following further amendment shall be made in the **Indian Aircraft Rules, 1937**, namely:

In clause (a) of sub-paragraph (1) of paragraph 1 of Schedule I to the said Rules, after the words "Hand fire extinguisher", the following shall be added, namely:—

"except when other approved fire extinguishing apparatus is provided."

Published in the *Gazette of India*, Part I, dated the 12th April 1941.
FINANCE DEPARTMENT (CENTRAL REVENUE).

New Delhi, the 12th April 1941.

No. 15.—In exercise of the powers conferred by section 1 of the **Excess Profits Tax Act, 1940** (XV of 1940), the Central Government directs that the following further amendments shall be made in the **Excess Profits Tax Rules, 1940**, the same having been previously made by the said Act, as required by sub-section (3) of the said section, namely:—

Rules:—

following clauses shall be substituted, namely:—

“this Act” except those in the proviso to clause (iii) in 10, the first proviso to sub-section (1) of section 54 where they last occur, to “the Act”.

“income-tax” except those in the expression “Income-tax” in sub-section (1) of section 61, in clause 61 and in sub-clause (a) of clause (iv) of sub-section (1) shall be construed as references to “excess profits”.

After paragraph (2) of sub-clauses (a) and (b) the following shall be inserted, namely:—

“In the words ‘total income’ the words ‘excess profits’ shall be

the following clause shall be inserted, namely:—

“For the words “this Chapter” the words and figures “Part IV and 44C” shall be substituted.”

the following clauses shall be substituted,

the words and figures

(2) A member filling a casual vacancy:—
 member whose place he fills would have been if the
 vacancy had not occurred.

(3) If any doubt or dispute arises as to the terms and conditions of service, the decision of the Central Government thereon shall be final.

(4) The names of members shall be published in the Gazette of India as soon as may be after nomination or election, as the case may be.

DEFENCE DEPARTMENT

New Delhi, the 12th April, 1924.

No. 592.—In exercise of the powers conferred by the Cantonments Act, 1924 (II of 1924), the Central Government hereby direct that the following further amendments shall be made in the notification of the Government of the North-West Frontier Province Cantonment Electoral Rules, No. 3447-D. D. No-27/96, dated the 2nd July 1923, previously published as required by the said section:

In the said Rules, under the heading "Rules,"

(1) rule 1 and Note 1 of the Notes below shall be deleted;

(2) in sub-rule (i) of rule 3, for the words "130 days before the date fixed for the election,"

the words "to be determined by the Government" shall be substituted;

(3) in sub-rule (ii) of rule 3, for the words "fresh roll,"

the words "fresh roll" shall be substituted.

any stores of any kind other than sulphur or chlorates when for the manufacture of matches, Bengal Lights and paper caps for toy pistols or."

DEPARTMENT OF COMMERCE.

New Delhi, the 19th April, 1941.

No. 23 (10)-Tr. (C. L.)/41.—In exercise of the powers conferred by section 151 of the **Indian Companies Act, 1913** (VII of 1913), the Central Government is pleased to direct that the following amendments shall be made in the Indian Companies Rules, 1941, namely:—

1. To rule 5 of the said Rules, the following shall be added, namely:—
"If the dissenting shareholder has no registered address in British India and has not supplied to the transferor company an address within British India for the giving of notices to him, a notice addressed to him and advertised in a newspaper circulating in the neighbourhood of the registered office of the company shall be deemed to be duly given to him on the day on which the advertisement appears.

2. In Form XXIX of the Forms set forth in the Schedule annexed to the said Rules, in the first paragraph, for the words "hereby gives you notice that if the said", the words "hereby gives you notice that if the said" shall be substituted.

DEFENCE DEPARTMENT.

New Delhi, the 19th April, 1941.

No. 631.—In exercise of the powers conferred by section 31 of the **Cantonments Act, 1924** (II of 1924), the Central Government is pleased to direct that the following amendments shall be made in the Delhi Cantonment Electoral Rules, 1937, published with the notification of the Chief Commissioner, Delhi, No. 12619 General, dated the 19th October 1937, the same having been previously published as required by the said section, namely:—

AMENDMENTS.

In the said Rules—

(1) (a) in rule 6 the words and figure "anything contained in rule 5 notwithstanding",

(b) rule 7 and sub-rule (ii) of rule 11,

(c) in sub-rule (vi) of rule 12 the words "with the approval of the District Magistrate",

(d) in rule 25 the words "and a copy to be sent to the Executive Officer",

(e) in rule 29 the words "save that the date of election shall be fixed by the District Magistrate", and

(f) rule 33 shall be omitted.

(2) save as otherwise expressly provided, for the words "Local Government" wherever they occur the words "Central Government" and for the words "District Magistrate" wherever they occur the word "President" shall be substituted;

(3) for clause (e) of rule 2, the following clause shall be substituted, namely:—

(e) "President" means the President of the Board;

(4) for rule 5, the following rule shall be substituted, namely:—

"5. **Qualifications of Electors.**—

(i) For the purposes of clause (a) of sub-section (1) of section 27 of the Act, the aggregate value of taxes to which a person should have been assessed in the year shall not be less than Rs. 10.

(ii) For the purposes of sub-clause (i) of clause (b) of the said section, the annual value of the land or building, as entered in the assessment, and the annual values of buildings and lands in the Cantonment, shall not be less than Rs. 26.

(iii) for the purposes of sub-clause (ii) of clause (b) of the same section, the annual income derived by a person carrying on any business in the Cantonment shall be calculated by subtracting the total expenditure incurred in carrying on the business from the total annual income derived from the business, during the last completed year, and as so calculated shall not be less than Rs. 300.

NOTE.—In clause (iii), "year" may be any period of twelve months for which the person carrying on business keeps his accounts, or for which his total expenditure and income are ascertainable."

(5) in rule 8, for the words "preceding a general election" the words "in each year" shall be substituted;

(6) in rule 10—

(a) in sub-rule (ii), for the words "Executive Officer" where they occur for the first time the words "President or such person as may be appointed by the President", and for the words "the Executive Officer" where they occur for the second time the word "he" shall be substituted; and to the said sub-rule the following shall be added, namely:—

"All proceedings under this sub-rule shall be reduced to writing."

(b) for sub-rule (iii) the following sub-rule shall be substituted, namely:—

"(iii) No appeal shall lie from an order passed under sub-rule (ii), but where such an order has been passed by a person other than the President, it shall be subject to revision by the President or such other person, other than a member or servant of the Board, as may be appointed by him, provided that every application for revision shall be submitted to the Executive Officer within three days of the date of the order to be revised."

(c) in sub-rule (iv), for the words "Executive Officer" the word "President" shall be substituted.

(7) in sub-rule (ii) of rule 17, for the word "Urdu" the word "Hindustani" shall be substituted;

(8) in rule 25 and sub-rule (i) of rule 26, for the words "District Magistrate", and in sub-rule (ii) of rule 26, for the words "District Magistrate, Delhi", the words "Executive Officer" shall be substituted;

(9) in sub-rule (ii) of rule 30, for the words "subordinate to him not below the rank of a Magistrate of the first class" the words "authorised by him in that behalf," shall be substituted.

Published in the "*Gazette of India*", Part I, dated the 26th April, 1941.

FINANCE DEPARTMENT (CENTRAL REVENUES).

New Delhi, the 26th April, 1941.

No 22.—In exercise of the powers conferred by section 5 of the **Motor Spirit (Duties) Act, 1917** (II of 1917), as made applicable to the levy and collection of an excise duty on kerosene by section 5 of the **Indian Finance Act, 1922** (XII of 1922), the Central Government is pleased to direct that the following further amendments shall be made in the **Kerosene (Duties) Order, 1922**, namely:—

In the said Order—

I. In clause 2, after sub-clause (2), the following sub-clause shall be inserted, namely:—

“(3) “Inspector” means—

(a) in the Provinces of Sind, Orissa and Coorg, any officer of the Land-Revenue, Excise, Customs, Salt or Income-tax Department, and

(b) in the Provinces of Bombay and Madras, any officer of the Customs, Salt or Income-tax Department,

authorised by the Collector to inspect the premises in which kerosene liable to duty is possessed or manufactured, and shall include an officer permanently stationed at the manufactory to supervise its operations;

Provided that (a) in the Province of Sind, no officer of the Customs or Income-tax Department and (b) in the Provinces of Bombay, Madras, and Orissa, no officer of the Income-tax Department shall be appointed by the Collector to be an Inspector without the previous approval of the Central Board of Revenue.”

II. In clause 5—

(1) Sub-clauses (1) and (2) shall be re-numbered as sub-clauses (2) and (3), respectively, and before sub-clause (2) as so re-numbered, the following sub-clause shall be inserted, namely:—

“(1) *Procedure in case of non-payment of duty and summary assessment.*—If the owner of a manufactory fails to submit a return, or if the information supplied in the return is incomplete or inaccurate, the Collector may after such inquiry as he considers necessary, make a summary assessment on such information as may be available and shall notify the assessment to the owner in Form B set out in the Schedule to this Order.”

(2) In sub-clause (2), as so re-numbered, the marginal heading “Procedure in case of non-payment of duty” shall be omitted.

(3) In sub-clause (3), as so re-numbered, for the words, figure and brackets “sub-clause (1)” the words, figures and brackets “sub-clauses (1) and (2)” shall be substituted.

III. In sub-clause (1) of clause 7, for the words “Coorg and” the words “Coorg or by” shall be substituted.

CENTRAL BOARD OF REVENUE.

New Delhi, the 26th April, 1941.

No. 17.—In exercise of the powers conferred by section 27 of the **Excess Profits Tax Act, 1940** (XV of 1940), the Central Board of Revenue directs that the following further amendments shall be made in the Excess Profits Tax Rules, 1940, the same having been previously published as required by sub-section (3) of the said section, namely:—

For Amendments in Forms E. P. 4, E. P. 9 and E. P. 17 see page 602 of Part I of the *Gazette of India*, 1941.

DEPARTMENT OF COMMUNICATIONS.

New Delhi the 19th April 1941.

No. W10 (2)/41.—In exercise of the powers conferred by section 5 of the **Indian Aircraft Act, 1934** (XXII of 1934) as amended by clause (4) of section 6 of the Defence of India Act, 1939 (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Indian Aircraft Rules, 1937, namely:—

In sub-rule (1) of rule 33 of the said Rules, after the words “British India”, the words “wherever it may be”, shall be inserted.

Published in the "*Gazette of India*", Part I, dated the 10th May, 1941.

CENTRAL BOARD OF REVENUE.

The 10th May, 1941.

No. 15.—In exercise of the powers conferred by sub-section (1) of section 59 of the **Indian Income-tax Act, 1922** (XI of 1922), the Central Board of Revenue directs that the following further amendments shall be made in the Indian Income-tax Rules, 1922, the same having been previously published as required by sub-section (4) of the said section, namely:—

In Forms A (T), B (T), C (T), C (1) (T), D/E (T), D (1) (T), F (T), G (T), H (T), H (1) (T), I (T), J (T) and J (1) (T) annexed to rule 22 of the said Rules—

(i) the brackets and words "(To be written in English on a separate Government water marked foolscap size paper)" shall be omitted, and

(ii) in paragraph 2 of the N. B. at the end of the said Forms, after the words "grounds of appeal" the words "to the Tribunal" shall be inserted.

Published in the "*Gazette of India*", Part I, dated the 17th May, 1941.

HOME DEPARTMENT.

Simla, the 14th May, 1941.

No. 78/40/41.—In exercise of the powers conferred by sub-section (2) of section 10 of the **Air Raid Precautions Services Ordinance, 1941**, (Ordinance No. IV of 1941), the Central Government is pleased to delegate to all Provincial Governments its power to make rules under the said section.

The 17th May, 1941.

No. 69/2-(11)/40.—In exercise of the powers conferred by section 3 of the **Foreigners Act, 1940** (II of 1940), the Central Government is pleased to make the following further amendment to the **Foreigners Order, 1939**, namely:—

After paragraph 4 the following shall be added, namely—

"4A. *Further restrictions on departure from British India.*—Further to the provisions of paragraph 4 of this Order, no foreigner of the male sex, other than a subject of a State having sovereignty over any territory of which the boundaries are co-terminous with the boundary, external or internal, of India, shall depart from British India without the permission of the Central Government."

CENTRAL BOARD OF REVENUE.

The 17th May, 1941.

No. 8.D.—In exercise of the powers conferred by sub-section (6) of section 5 of the **Indian Income-tax Act, 1922** (XI of 1922), the Central Board of Revenue directs that the following further amendments shall be made in its notification No. 19:Income-tax, dated the 1st April 1939, namely:—

In the Schedule annexed to the said notification—

(i) Serial No. 43-A shall be omitted:

(ii) In the entry in the second column relating to Serial No. 44, after the words and brackets "(excluding Government servants in the Indian Audit and Accounts Service attached to Railway and Postal Audit Offices)" the words "the Military Accountant General" shall be inserted.

Published in the "*Gazette of India*", Part I, dated the 24th May, 1941

HOME DEPARTMENT.

The 20th May, 1941.

No. 21/38/39.—In exercise of the powers conferred by section 17 of the **Indian Arms Act, 1878** (XI of 1878), the Central Government is pleased to direct that the following further amendments shall be made in the Indian Arms Rules, 1924, namely:—

(1) After sub-rule (9) of rule 46 of the said Rules, the following sub-rule shall be inserted, namely:—

"(10) No fee shall be chargeable in respect of a licence in Form IX granted under rule 28 (1) (a) for the conversion of chlorates for industrial purposes other than the manufacture of fireworks".

(2) In Form IX of Schedule VIII to the said Rules, for the heading "Fee—Twenty Rupees" the following heading shall be substituted, namely:—

"Fee—

(a) where granted under rule 28 (1) (a), twenty rupees; or

(b) in the case referred to in rule 46 (10), Free of all fee."

DEPARTMENT OF COMMERCE.

The 24th May, 1941.

No. 15-W. R. I.—41.—In exercise of the powers conferred by section 14 of the **War Risks (Goods) Insurance Ordinance, 1940** (No. IX of 1940), the Central Government is pleased to direct that the following amendment shall be made in the War Risks (Goods) Insurance Rules, namely:—

In sub-rule (1) of rule 6 of the said Rules, for the words "one sixteenth per cent. per month or part of a month", the following words shall be substituted, namely:—

"One anna per month or part of a month for each complete sum of one hundred rupees."

DEPARTMENT OF EDUCATION, HEALTH AND LANDS.

Simla, the 5th May, 1941.

No. F-3-27 (1)/40.—In exercise of the powers conferred by section 3 of the **Agricultural Produce (Grading and Marking) Act, 1937** (I of 1937), the Central Government is pleased to make the following rules, the same having been previously published as required by the said section namely:—

The Creamery Butter Grading and Marking Rules, 1941.

1. *Short title and application.*—(1) These rules may be called the Creamery Butter Grading and Marking Rules, 1941.

* * * * *

For the remaining portion of the Rules: See page 759 of Part I of the *Gazette of India*, 1941.

The 19th May, 1941.

No. F.-28-13 (5)/41-F. & L. (C).—In exercise of the powers conferred by section 7 of the **Delhi Laws Act, 1912** (XIII of 1912), the Central Government is pleased to extend to the province of Delhi, the United Provinces Town Improvement (Appeals) Act, 1920, (III of 1920), with the following modification, namely:—

In section 2 of the said Act, for clause (1) the following clause shall be substituted, namely:—

"(1) 'High Court' means the High Court of Judicature at Lahore; and"

Published in the "*Gazette of India*", Part I dated the 7th June 1941.

HOME DEPARTMENT.

The 30th May 1941.

No. 78/41.—In exercise of the powers conferred by section 7 of the **Delhi Laws Act, 1912** (XIII of 1912), the Central Government is pleased to direct that the following further amendment shall be made in the notification of the Government of India in the Home Department No. 189/38-Judicial, dated the 30th May 1939, namely :—

To the entries in the Schedule annexed to the said notification, the following entry shall be added, namely :—

"57. The Punjab Suppression of Indecent Advertisements Act, 1941, (Punjab Act VII of 1941). Delhi."

The 5th June 1941.

No. 11/6/38.—In pursuance of sub-section (2) of Section 1 of the **Code of Criminal Procedure (Amendment) Act, 1940** (XXXV of 1940), the Central Government is pleased to appoint the 9th June 1941 as the date on which the said Act shall come into force.

Published in the "*Gazette of India*," Part I, dated the 14th June 1941.

HOME DEPARTMENT.

The 7th June 1941.

No. 21/24/41.—In exercise of the powers conferred by sections 17 and 27 of the **Indian Arms Act, 1878** (XI of 1878), the Central Government is pleased to direct that the following further amendments shall be made in the Indian Arms Rules, 1924, namely :—

In Schedule I to the said Rules, in the first column, for entries (b), (c) and (d) under item (1) and for entry (a) under item (2), the following entries shall be substituted respectively, namely :—

• "(b) every Ruling Prince or Chief having a salute of guns or who is a member of the Chamber of Princes in his own right, and every legitimate son of such Ruling Prince or Chief who is not less than 16 years of age and has been nominated by such Ruling Prince or Chief."

"(c) the retainers of any Ruling Prince or Chief referred to in sub-head (b) above, when such Prince or Chief is entering, passing through or residing in British India."

"(d) servants of a Ruling Prince or Chief referred to in sub-head (b) above, when carrying arms for, but not accompanying, their master."

"(a) Every Ruling Chief not having a salute of guns or who is not a member of the Chamber of Princes in his own right."

Published in the "*Gazette of India*", Extraordinary dated the 14th June 1941.

DEPARTMENT OF COMMERCE.

Simla, the 14th June 1941.

No. 22-W. R. I. 41.—In exercise of the powers conferred by section 14 of the **War Risks Goods Insurance Ordinance, 1940** (No. IX of 1940), the Central Government is pleased to direct that the following further amendment shall be made in the War Risks (Goods) Insurance Rules, namely :—

In sub-rule (7) of rule 6 of the said Rules, after the figures, letters and word "30th June 1941," the words, figures and letters "or the quarter ending on the 30th September 1941," shall be inserted.

Published in the "*Gazette of India*", Extraordinary, dated the 5th June, 1941.
HOME DEPARTMENT.

Delhi, the 5th June 1941.

No. F. 11/41-S. P.—In exercise of the powers conferred by section 16 of the **Indian Criminal Law Amendment Act, 1908**, the Chief Commissioner of Delhi, being of opinion that the association commonly known as the Anjuman-i-Khaksaran interferes with the maintenance of law and order and constitutes a danger to the public peace, hereby declares the said Anjuman-i-Khaksaran to be an unlawful association.

Published in the "*Gazette of India*", Extraordinary, dated the 14th June, 1941
DEPARTMENT OF COMMERCE.

Simla, the 14th June 1941.

No. 22-W. R. I./41.—In exercise of the powers conferred by section 14 of the **War Risks (Goods) Insurance Ordinance, 1940** (No. IX of 1940), the Central Government is pleased to direct that the following further amendment shall be made in the War Risks (Goods) Insurance Rules, namely:—

In sub-rule (1) of rule 6 of the said Rules, after the figures, letters and word "30th June 1941," the words, figures and letters "or the quarter ending on the 30th September 1941," shall be inserted.

Published in the "*Gazette of India*", Part I, dated the 28th June, 1941.
DEPARTMENT OF EDUCATION, HEALTH AND LANDS.

The 26th June 1941.

No. F-24-8 (39)/38-H. (C.).—In pursuance of sub-section (3) of section 1 of the **Delhi Restriction of Uses of Land Act, 1941** (XII of 1941), the Central Government is pleased to appoint the 28th June 1941, as the date on which the said Act shall come into force.

Published in the "*Gazette of India*", Part I, dated the 12th July 1941.
DEPARTMENT OF EDUCATION, HEALTH AND LANDS.

Simla, the 8th July, 1941.

No. F. 3-13 (20)/41-A. (C).—In exercise of the powers conferred by section 3 of the **Agricultural Produce (Grading and Marking) Act, 1937** (I of 1937), the Central Government is pleased to make the following rules, the same having been previously published as required by the said section, namely:—

The Seed Lac Grading and Marking Rules, 1941.

1. *Short title and application.*—(1) These rules may be called the Seed Lac Grading and Marking Rules, 1941.

(2) They shall apply to seed lac produced in India from Indian stick lac.

Published in the "*Gazette of India*", Part I, dated the 26th July 1941.
HOME DEPARTMENT.

The 24th July, 1941.

No. 21/32/41.—In exercise of the powers conferred by section 17 of the **Indian Arms Act, 1878** (XI of 1878), the Central Government is pleased to direct that the following further amendments shall be made in the Indian Arms Rules, 1924, namely:—

In the said Rules—

(1) in clause (b) of rule 8, after the word "Cochin," the words "Tuticorin" shall be inserted, and

(2) in clause (c) of rule 9, for the words "port of Mangalore", the words "ports of Mangalore and Tuticorin" shall be substituted.

Published in the "*Gazette of India*", Part I, dated the 9th August 1941.

FINANCE DEPARTMENT.

The 7th August, 1941.

No. D.-7382-F.—In pursuance of sub-section (6) of section 42 of the **Reserve Bank of India Act, 1934** (II of 1934), the Central Government is pleased to direct the inclusion in the Second Schedule to the said Act of the following bank, namely:—

Bank of China, Calcutta.

DEPARTMENT OF LABOUR.

Simla, the 4th August, 1941.

No. L.-1785 (2).—In exercise of the powers conferred by section 35 of the **Workmen's Compensation Act, 1923** (VIII of 1923), the Central Government is pleased to direct that the following further amendment shall be made in the Workmen's Compensation (Transfer of Money) Rules, 1935, namely:—

Rule 1 of the said Rules shall be re-numbered as sub-rule (1) of that rule, and to that rule as so re-numbered the following sub-rule shall be added, namely:—

"(2) They extend to the whole of British India including Berar, and every reference therein to British India shall be construed as including a reference to Berar".

Published in the "*Gazette of India*", Part I, dated the 16th August, 1941.

DEPARTMENT OF COMMERCE.

The 16th August, 1941.

No. 597-I. (3)/41.—In exercise of the powers conferred by sub-sections (1) and (2) of section 14 of the **Insurance Act, 1938** (IV of 1938), the Central Government is pleased to direct that the following further amendment shall be made in the Insurance Rules, 1939, the same having been previously published as required by sub-section (1) of the said section, namely:—

1. In rule 16—

(a) in clause (a) for the words "a fee of one rupee", the words, brackets and letters "the fee specified in clause (aa)" shall be substituted;

(b) after clause (a) the following clause shall be inserted, namely:—

"(aa) The fee for obtaining or renewing a licence to act as an insurance agent shall be one rupee if the licence is issued for a period beginning with a date earlier than the 1st October 1941 or one and a half rupees in any other case;

Provided that an addition of one rupee shall be paid if the application for renewal of the licence reaches the issuing authority on or after the date on which the licence ceases to be in force."

2. In rule 24—

(a) in sub-rule (1)—

(i) for the words "one hundred rupees" the words "five hundred rupees" shall be substituted;

(ii) for the words "accident and miscellaneous insurance including workmen's compensation and motor car insurance", the words "miscellaneous insurance" shall be substituted;

(iii) in the proviso for the words "fifty rupees" in both places where they occur, the words "two hundred and fifty rupees" shall be substituted.

(b) sub-rule (2) shall be renumbered as sub-rule (6), and sub-rule (3) shall be omitted.

(c) before sub-rule (6) as so renumbered, the following sub-rules shall be inserted, namely:—

"(2) The fee for renewal of registration under section 3A of the Act for each class of insurance business for which the insurer is registered shall be,

(i) where the total annual gross premium income including annuity considerations, if any, as shown in the revenue account for that class of insurance business prepared under the Act for the calendar year preceding the one in which the application for renewal of registration is required to be made does not exceed one lakh of rupees, fifty rupees;

(ii) where such premium income exceeds one lakh of rupees but does not exceed two lakhs of rupees, one hundred rupees;

(iii) where such premium income exceeds two lakhs of rupees but does not exceed four lakhs of rupees, one hundred and fifty rupees;

(iv) where such premium income exceeds four lakhs of rupees but does not exceed six lakhs of rupees, two hundred and fifty rupees;

(v) where such premium income exceeds six lakhs of rupees but does not exceed ten lakhs of rupees, three hundred and seventyfive rupees;

(vi) where such premium income exceeds ten lakhs of rupees, five hundred rupees:

Provided that the fees for renewal of registration payable in any one year by an insurer in respect of his insurance business other than life insurance business shall not exceed one thousand and five hundred rupees.

(3) The fee for registration under section 70 of the Act shall be two hundred rupees.

(4) The fee for renewal of registration under section 70A of the Act shall be fifty rupees where the total gross premium income including annuity considerations, admission fees and other fees, if any, as shown in the revenue account last furnished under the Act was less than fifty thousand rupees per annum or one hundred rupees in all other cases

(5) The fee payable for obtaining copies under section 119 of the Act shall be two rupees for each foolscap page of the copy, the copy being prepared with reasonable margin and spacing."

(d) in sub-rule (6) as so renumbered, for the words "The fee for registration", the words, brackets and figures "Any fee specified in this rule or payable under sub-section (1) of section 20 of the Act" shall be substituted and for the words "the application for registration", the words "the relevant application" shall be substituted.

DEPARTMENT OF COMMUNICATIONS.

Simla, the 13th August, 1941.

No. 1-A/10-41.—In exercise of the powers conferred by section 5 of the Indian Aircraft Act, 1934 (XXII of 1934), as amended by clause (4) of section 6 of the Defence of India Act, 1939 (XXXV of 1939), the Central Government is pleased to direct that the following further amendments shall be made in Part IX of the Indian Aircraft Rules, 1920, and in the Indian Aircraft Rules, 1937, namely:—

I. In Part IX of the Indian Aircraft Rules, 1920, after rule 64, the following rule shall be inserted, namely:—

"64A. These rules extend to the whole of British India including Berar, and every reference therein to British India shall be construed as including a reference to Berar."

11. In the Indian Aircraft Rules, 1937, after sub-rule (1) of rule the following sub-rule shall be inserted, namely:—

"(1A) They extend to the whole of British India including Berar, and every reference therein to British India shall be construed as including a reference to Berar."

Published in the "*Gazette of India*", Part I, dated the 23rd August, 1941.

DEPARTMENT OF COMMERCE.

The 28rd August, 1941.

No. 40 (1)-Tr. C. L.)/41.—In exercise of the powers conferred by section 151 of the Indian Companies Act, 1913 (VII of 1913), the Central Government is pleased to direct that the following further amendments shall be made in the Indian Companies Rules, 1941, namely:—

In rule 1 of the said Rules—

(a) in the heading, after the word "*title*," the word "*extent*," shall be inserted;

(b) sub-rules (2) and (3) shall be renumbered as sub-rules (3) and (4) respectively and before sub-rule (3) as so re-numbered, the following sub-rule shall be inserted, namely:—

"(2) They extend to the whole of British India, including Berar, and every reference therein to British India shall be construed as including a reference to Berar."

No. 40 (1)-Tr. (C. L.)/41.—In pursuance of section 249 of the Indian Companies Act, 1913 (VII of 1913), and in supersession of the notification of the Government of India in the Department of Commerce, No. 23 (12)/A-Tr. (C. L.)/37, dated the 22nd February 1941, the Central Government is pleased to direct that the fees payable in respect of the matters specified in items 6 and 8 of Parts I and II respectively of Table B in the First Schedule to the said Act shall be three rupees.

No. 334 (11)-Tr. (I. E. R.)/41.—In exercise of the powers conferred by section 48 of the Coffee Market Expansion Ordinance, 1940, (No. XIII of 1940), the Central Government is pleased to direct that the following further amendment shall be made in the Coffee Market Expansion Rules, 1940, namely:—

For sub-rule (5) of rule 34 of the said Rules, the following sub-rule shall be substituted, namely:—

"The cheque referred to in sub-rule (4) and all orders for making deposits or investments or for the withdrawal of the same or for the disposal in any other manner of the funds of the Board shall be signed by the Secretary to the Board or any other officer duly authorised by the Board in this behalf, and if so further directed by the Board, shall be countersigned—

(i) by the Chairman or a member or any officer of the Board, or

(ii) by the Controller."

DEPARTMENT OF EDUCATION, HEALTH AND LANDS.

Simla, the 18th August, 1941.

No. F 3-12 (5)/41.—In exercise of the powers conferred by section 3 of

the Agricultural Produce (Grading and Marking) Act, 1937 (1 of 1937), the Central Government is pleased to direct that the amendments specified in the second column of the Schedule hereto annexed shall be made in the rules mentioned in the corresponding entries in the first column of the said Schedule, the same having been previously published as required by the said section.

Schedule.

Rules.	Amendments.
1. The Agricultural Produce (Grading and Marking) (Grapes) Rules, 1937.	(1) In sub-rule (1) of rule 1, for the words and brackets "Agricultural Produce (Grading and Marking) (Grapes)", the words "Grapes Grading and Marking" shall be substituted. (2) In Schedule VII, in column 3 under the sub-heading "Minimum weight", for the letters "Oz", the word "tolas" shall be substituted.
2. The Agricultural Produce (Grading and Marking) (General) Rules, 1937.	In rule 1, for the words and brackets "Agricultural Produce (Grading and Marking) (General)", the words "General Grading and Marking" shall be substituted.
3. The Agricultural Produce (Grading and Marking) (Oranges) Rules, 1937.	In sub-rule (1) of rule 1, for the words and brackets "Agricultural Produce (Grading and Marking) (Oranges)", the words "Oranges Grading and Marking" shall be substituted.
4. The Agricultural Produce (Grading and Marking) (Eggs) Rules, 1937.	In sub-rule (1) of rule 1, for the words and brackets "Agricultural Produce (Grading and Marking) (Eggs)" the words "Eggs Grading and Marking" shall be substituted.
5. The Agricultural Produce (Grading and Marking) (Tobacco) Rules, 1937.	In sub-rule (1) of rule 1, for the words and brackets "Agricultural Produce (Grading and Marking) (Tobacco)" the words "Tobacco Grading and Marking" shall be substituted.
6. The Agricultural Produce (Grading and Marking) (Skins) Rules, 1937.	In sub-rule (1) of rule 1, for the words and brackets "Agricultural Produce (Grading and Marking) (Skins)" the words "Skins Grading and Marking" shall be substituted.
7. The Agricultural Produce (Grading and Marking) (Ghee) Rules, 1938.	(1) In sub-rule (1) of rule 1, for the words and brackets "Agricultural Produce (Grading and Marking) (Ghee)" the words "Ghee Grading and Marking" shall be substituted. (2) In rules 5 and 7, for the words and brackets "Agricultural Produce (Grading and Marking) (General)" the words "General Grading and Marking" shall be substituted.
8. The Agricultural Produce (Grading and Marking) (Apples) Rules, 1938.	In sub-rule (1) of rule 1, for the words and brackets "Agricultural Produce (Grading and Marking) (Apples)" the words "Apples Grading and Marking" shall be substituted.

Rules.	Amendments.
9. The Agricultural Produce (Grading and Marking) (Plums) Rules, 1938.	In sub-rule (1) of rule 1, for the words and brackets "Agricultural Produce (Grading and Marking) (Plums)" the words "Plums Grading and Marking" shall be substituted.
10. The Edible Oils Grading and Marking Rules, 1939, the Vanaspathi Grading and Marking Rules, 1939, the Citrus Fruit Products Grading and Marking Rules, 1939, and the <i>Ata</i> Grading and Marking Rules, 1940.	In rule 7, for the words and brackets "Agricultural Produce (Grading and Marking) (General)" the words "General Grading and Marking" shall be substituted.

Published in the "*Gazette of India*", Part I, dated the 30th August, 1941.

DEPARTMENT OF COMMERCE.

• The 30th August, 1941.

No. 204 (16)-Tr. (I.E. R.)/41.—In exercise of the powers conferred by section 23 of the Indian Tea Control Act, 1938 (VIII of 1938), the Central Government is pleased to direct that the following further amendment shall be made in the Indian Tea Control Rules, 1938, namely:—

In Schedule III annexed to the said Rules, after the entry "Tingling", the entry "Saumebeong" shall be inserted

Published in the "*Gazette of India*", Part I, dated the 6th September, 1941.

DEPARTMENT OF COMMERCE.

• The 6th September, 1941.

No. 223-Ind. (9)/41-A.—In exercise of the powers conferred by sub-section (1) of section 57 and sub-section (1) of section 77 of the Indian Patents and Designs Act, 1911 (II of 1911), the Central Government is pleased to direct that the following further amendments shall be made in the Indian Patents and Designs Rules, 1933, the same having been previously published as required by sub-section (2) of the last named section, namely:—

In rule 1 of the said Rules—

(a) in the marginal heading, after the word "title", the word "extent", shall be inserted; and

(b) sub-rule (2) shall be renumbered as sub-rule (3), and before sub-rule (3) as so renumbered, the following sub-rule shall be inserted, namely:—

"(2) They extend to the whole of British India, including Berar, and every reference therein to British India shall be construed as including a reference to Berar."

Published in the "*Gazette of India*", Part I, dated the 13th September 1941.

HOME DEPARTMENT.

• The 11th September 1941.

No. 104/41.—In exercise of the powers conferred by section 7 of the Delhi Laws Act, 1912 (XIII of 1912) the Central Government is pleased

to direct that the following further amendment shall be made in the notification of the Government of India in the Home Department, No. 189/38-Judicial, dated the 30th May 1939, namely :—

In the Schedule annexed to the said notification the entry numbered 57 shall be renumbered as entry 58, and before entry 58 as so renumbered the following entry shall be inserted, namely :—

" 57. The Punjab Entertainments Duty (Amendment) The Province of Delhi." Act, 1941 (Punjab Act III of 1941).

FINANCE DEPARTMENT (CENTRAL REVENUES).

The 13th September 1941.

No. 5.—In exercise of the powers conferred by clause (a) of section 9 of the Indian Stamp Act, 1899 (II of 1899), the Central Government is pleased to reduce the duty chargeable under the said Act on a proxy empowering a policyholder of an insurance company to vote at a meeting of the policy holders of the said company to be held for the election of directors, to 2 annas.

DEPARTMENT OF COMMERCE.

The 13th September 1941.

No 35-W.R.I./41.—In exercise of the powers conferred by section 14 of the War Risks (Goods) Insurance Ordinance, 1940 (No. IX of 1940), the Central Government is pleased to direct that the following further amendments shall be made in the War Risks (Goods) Insurance Rules, namely :—

I. In rule 6 of the said Rules, sub-rule (2) shall be re-numbered as sub-rule (3) and before sub-rule (3) as so re-numbered, the following sub-rule shall be inserted, namely :—

"(2) The premium payable under any policy of insurance issued under the Scheme during any quarter subsequent to that ending on 30th September 1941 shall be payable at the rate fixed by the Central Government by notification in that behalf."

II. In the Third Schedule annexed to the said Rules, under the heading "Instructions", for Instructions 9 and 10, the following Instructions shall be substituted respectively, namely :—

"9. *Rate of Premium.*—The rate of premium is fixed quarterly and the current rate may be ascertained from any Government Agent.

10. *Calculation of Premium.*—On insurances effected during the months of April, July, October and January three months' premium will be payable. On insurances effected during the months of May, August, November and February two months' premium will be payable. On insurances effected during the months of June, September, December and March one month's premium will be payable."

Published in the "Gazette of India", Part I, dated the 20th September, 1941.

FINANCE DEPARTMENT (CENTRAL REVENUES.)

The 20th September 1941.

No. 21.—In pursuance of sub-section (4) of section 5 of the Indian Income-tax Act, 1922 (XI of 1922), the Central Board of Revenue directs that the following further amendments shall be made in its notification No. 58-Income-tax, dated the 15th July 1939, namely :—

In the Schedule appended to the said notification under the heading "V. —Punjab, North-West Frontier Province and Delhi"—

(i) for item (1) against 'Lahore' Range the following item shall be substituted, namely :—

"(i) Lahore, D, E, F and G Wards."

(iii) after item.(7) against "Amritsar" Range the following item shall be added, namely:—

"(8) Lahore, A, B and C wards."

Published in the "*Gazette of India*", Part I, dated the 27th September 1941.

HOME DEPARTMENT.

The 23rd September 1941.

No. 21/37/41. — In exercise of the powers conferred by sections 17 and 27 of the **Indian Arms Act, 1878** (XI of 1878), the Central Government is pleased to direct that, with effect from the 1st January 1942, the following further amendments shall be made in the Indian Arms Rules, 1924, namely:—

(1) After clause (e) of sub-rule (1) of rule 5 of the said Rules, the following clause shall be inserted, namely:—

"(f) Anti-tank rifles"

(2) In the said Rules and in the schedules annexed thereto, in

(a) sub-clauses (i) and (ii) of clause (a) of sub-rule (1) of rule 7;

(b) sub-rule (3) of rule 28;

(c) clauses (i) and (ii) of the proviso to sub-rule (1) of rule 33;

(d) clauses (a) and (b) of the proviso to sub-rule (1) of rule 34;

(e) sub-rule (1) of rule 38;

(f) clause (d) of the entries relating to items (1), (2), (3) and (6) in the second column of Schedule I; and

(g) clause (iv) of condition (a) relating to item (11) in column 3 of Schedule VI,

after the figures and word ".450 bore" the words, figures and letters "or 6.5 m m. or 8 m.m. calibre" shall be inserted.

FINANCE DEPARTMENT (CENTRAL REVENUES).

Simla, the 27th September 1941.

No. 69-C.—In exercise of the powers conferred by section 18 of the **Matches (Excise Duty) Act, 1934** (XVI of 1934), the Central Government is pleased to direct that, with effect from the 1st October 1941, the following further amendments shall be made in the Matches (Excise Duty) Order, 1934, namely:—

In the Table set forth in sub-clause (2) of clause 42 of the said Order—

1. For the entry

"2. Banderols for boxes or booklets containing on an average more than 40 but not more than 60 matches. Per gross of banderols, three rupees." the following entry shall be substituted, namely:—

"2. Banderols for boxes or booklets containing on an average more than 40 but not more than 50 matches.—Per gross of banderols, two rupees and eight annas."

2. Entries 3 and 4 shall be renumbered as entries 4 and 5 respectively, and before entry 4 as so renumbered, the following entry shall be inserted, namely:—

"4. Banderols for boxes or booklets containing on an average more than 50 but not more than 60 matches.—Per gross of banderols, three rupees."

No. 72-C.—In exercise of the powers conferred by section 18 of the **Matches (Excise Duty) Act, 1934** (XVI of 1934), the Central Government is pleased to direct that, with effect from the 1st October 1941, the following further amendments shall be made in the Northern India Matches (Excise Duty) Order 1938, namely:—

In the Table set forth in sub-clause (2) of clause 45 of the said Order—

1. For the entry

"2. *Banderols for boxes or booklets containing on an average more than 40 but not more than 60 matches.*—Per gross of banderols, three rupees." the following entry shall be substituted, namely :—

"2. *Banderols for boxes or booklets containing on an average more than 40 but not more than 50 matches.*—Per gross of banderols, two rupees and eight annas."

2. Entries 3 and 4 shall be renumbered as entries 4 and 5 respectively, and before entry 4 as so renumbered the following entry shall be inserted, namely :—

"3. *Banderols for boxes or booklets containing on an average more than 50 but not more than 60 matches.*—Per gross of banderols, three rupees."

No. 73-C.—In exercise of the powers conferred by section 18 of the **Matches (Excise Duty) Act, 1934** (XVI of 1934), the Central Government is pleased to direct that, with effect from the 1st October 1941, the following further amendments shall be made in the Northern India Matches (Excise Duty) Supplementary Order, 1938, namely :—

I. In clause 16 of the said Order, for the figures "2", "4", "20" and "40", wherever they occur, the figures "4", "5", "40" and "50" shall be respectively substituted.

II. In the second column of Forms M. E.-10 and M. E.-11 set forth in the Schedule to the said Order, the entries under the sub-heading "Value per gross of banderols" and "Value per gross", respectively shall be omitted.

No. 74-C.—In exercise of the powers conferred by section 19 of the **Matches (Excise Duty) Act, 1934** (XVI of 1934), the Central Government is pleased to direct that, with effect from the 1st October 1941, the following further amendments shall be made in the rules published with the notification of the Government of India in the Finance Department (Central Revenues), No. 13-Central Excise, dated the 30th June 1934, namely :—

In the said Rules—

I. In rule 1 A—

(a) for clause (ii) the following clause shall be substituted, namely :—

"(ii) where the average number of matches in a box or booklet is more than 40 but not more than 50, a rebate of one anna per gross of boxes or booklets ;"

(b) clause (iii) shall be renumbered as clause (iv) and before clause (iv) as so renumbered, the following clause shall be inserted, namely :—

"(iii) where the average number of matches in a box or booklet is more than 50 but not more than 60, a rebate of one anna and three pies per gross of boxes or booklets ;"

II. For rule 5, the following rule shall be substituted, namely :—

"5. The Treasury Officer shall, on presentation of such certificate, issue to the owner of the manufactory banderols of class 1, 2, 3, 4 or 5 specified in clause 42 of the Matches (Excise Duty) Order, 1934, or clause 45 of the Northern India Matches (Excise Duty) Order, 1938, of distinctive colour at the following rates, namely :—

Banderols of class 1 ... Per gross of banderols, one rupee, fifteen annas and two pies.

Banderols of class 2 ... Per gross of banderols, two rupees and seven annas.

Banderols of class 3 ... Per gross of banderols, two rupees, fourteen annas and nine pies.

Banderols of class 4 ... Per gross of banderols, three rupees, fourteen annas and four pies.

Banderols of class 5 ... Per gross of banderols, nine annas and two pies."

DEPARTMENT OF LABOUR.

The 20th September 1941.

No. E-103.—In exercise of the powers conferred by sections 5 and 7 of the **Indian Explosives Act, 1884** (IV of 1884), the Central Government is pleased to direct that the following amendment shall be made in the Explosives Rules, 1940, the same having been previously published as required by section 18 of the said Act, namely:—

In the said Rules—

(1) to sub-rule (2) of rule 1, the words "and Berar, and every reference therein to British India shall be construed as including a reference to Berar" shall be added; and

(2) in sub-rule 1) of rule 2, after the figures "1914," the words and figures "the Berar Explosives Rules, 1914," shall be inserted.

Published in the "*Gazette of India*", Part I, dated the 4th October, 1941.

HOME DEPARTMENT.

The 1st October, 1941.

No. 21/37/40. -In exercise of the powers conferred by section 27 of the **Indian Arms Act, 1878** (XI of 1878), the Central Government is pleased to direct that the following further amendment shall be made in the Indian Arms Rules, 1924, namely:—

In the Table set forth in Schedule IV to the said Rules, entries (1), (2) and (6) shall be omitted.

Published in the "*Gazette of India*," Part I, dated the 11th October 1941

DEPARTMENT OF COMMERCE.

The 11th October 1941.

No. 38-W.R.L.—In exercise of the power conferred by section 14 of the **War Risks (Goods) Insurance Ordinance 1940** (No. IX of 1940), the Central Government is pleased to direct that the following further amendments shall be made in the War Risks (Goods) Insurance Rules namely:—

In the Third Schedule annexed to the said Rules, under the sub-heading "*Instructions*"—

(a) in paragraph 3, the words "mineral oils," shall be omitted;

(b) for paragraph 11, the following paragraph shall be substituted, namely:

"11. **MINIMUM PREMIUM:** The minimum premium for the first policy issued to any person in any quarter for a period of one month or less will be Rs. 5. Similarly for the first policy issued for a period exceeding one month the minimum premium will be Rs. 10. For any subsequent policy issued to the same person in the same quarter, the minimum premium will be Rs. 2-8-0."

Published in the "*Gazette of India*", Part I, dated the 18th October 1941.
FINANCE DEPARTMENT (CENTRAL REVENUES).

Simla, the 11th October 1941.

No. 1.—In pursuance of clause (a) of rule 2 of the **Central Opium Rules, 1934**, the Central Government is pleased to define, in accordance with the Schedule appended hereto, the tracts in the United Provinces of Agra and Oudh within which poppy may be cultivated on account of Government during the year ending the 30th September 1942.

SCHEDULE.

Districts.	Parganas.
Ghazipur ...	Zamania, Ghazipur Pachotar, Shadiabad, Saidpur, Muhammadabad and Zahurabad.
Azamgarh ...	Sagri, Nathupur, Ghosi and Mubammadabad.
Gorakhpur ...	Chillupar, Unaula, Bhaupar and Dburiapar.
Bareilly ...	Saneha, Ballia and Aonia.
Shahjahanpur ...	Jalalabad, Kant and Tilhar.
Gonda ...	Pabarapur, Guwarich, Digsir, Nawabganj and Mahadewa.

New Delhi, the 18th October 1941.

No. 43.—In exercise of the powers conferred by section 11 of the **Sugar (Excise Duty) Act, 1934 (XIV of 1934)**, the Central Government is pleased to direct that the following further amendment shall be made in the **Sugar (Excise Duty) Order, 1934**, namely:—

In clause 6 of the said Order, the words "pay it into the Treasury" shall be omitted and for the words "less any amount or amounts that may have been paid, before the return is submitted, into an approved treasury or approved treasuries elsewhere", the following shall be substituted, namely:—

"pay it into the local Treasury or any other treasury approved by the Collector less any amount that may have been paid, before the return is submitted, into any such treasury".

No. 24.—In exercise of the powers conferred by sub-section (1) of section 59 of the **Indian Income Tax Act, 1922 (XI of 1922)**, the Central Board of Revenue directs that the following further amendments shall be made in the **Indian Income-tax Rules, 1922**, the same having been previously published as required by sub-section (4) of the said section, namely:—

In the said Rules—

(1) to rule 2 the following shall be added, namely:—

"or

(a) before or after the dissolution of the firm in respect of the assessment or assessments to be made on its income up to the date of dissolution:

Provided that where an application is made under clause (a) after dissolution of the firm, it shall be signed by all persons who were partners in the firm immediately before dissolution and by the legal representative of any such person who is deceased.

(2) In rule 3—

(a) after the words "by all the partners" the words

"or where the application is made after dissolution of the firm, by all the persons referred to in the proviso to the said Rule," shall be inserted;

(b) in paragraph 3 of Form I annexed to the said rule, for the words "previous year were" the words

"previous years were"

period up to the date of dissolution were/will be" shall be substituted;

(c) to the Note below the said Form, the following shall be added, namely:—

"or where the application is made after dissolution of the firm, by all persons who were partners in the firm immediately before dissolution and by the legal representative of any such person who is deceased."

(3) in sub-rule (1) of rule 4 after the words "is satisfied that there is" the words "or was" shall be inserted;

(4) in rule 6—

(a) after the words "all the partners of the firm" the words

"or where the application is made after dissolution of the firm, by all persons who were partners in the firm immediately before dissolution and by the legal representative of any such person who is deceased,";

(b) for the words, brackets and letter "or clause (d)", the words, brackets and letters, "clause (d) or clause (e)" shall be substituted;

(c) to the Note below the Form annexed to the said rule, the following shall be added, namely:—

"or if made after dissolution of the firm, by all persons who were partners in the firm immediately before dissolution and by the legal representative of any such person who is deceased."

Published in the "*Gazette of India*", Part I, dated the 25th October 1941.

HOME DEPARTMENT.

New Delhi, the 22nd October 1941.

No. 21/52/40.—In exercise of the powers conferred by sections 17 and 27 of the **Indian Arms Act, 1878** (XI of 1878), the Central Government is pleased to direct that the following further amendment shall be made in the **Indian Arms Rules, 1924**, namely:—

In Schedule I to the said Rules, in the entry in the second column relating to item (11), for the words and figures "Revolvers of .455 bore" the words "revolver of any bore" shall be substituted.

DEPARTMENT OF COMMUNICATIONS.

New Delhi, the 22nd October 1941.

No. 1-A/18-41.—In exercise of the powers conferred by section 5 of the **Indian Aircraft Act, 1934** (XXII of 1934), as amended by clause (4) of section 6 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendments shall be made in the **Indian Aircraft Rules, 1937**, namely:—

In the said Rules,—

I. In rule 81, after the words, "Every aerodrome which is licensed for public use or which is open to", the word "public" shall be inserted; and

II. For rule 82, the following rule shall be substituted, namely:—

"82. *Tariff charges.*—(1) At every aerodrome referred to in rule 81 there shall be exhibited in a conspicuous place a single tariff of charges, including charges for landing and length of stay, and such tariff shall be applicable alike to all aircraft whether registered in India or in any other contracting state.

(2) In the case of Government aerodromes, the charges mentioned in sub-rule (1) shall not exceed those specified in, and shall be leviable in accordance with the provisions contained in, Section B of Schedule V to these Rules.

(3) In the case of licensed public aerodromes, other than Government aerodromes, the charges mentioned in sub-rule (1), shall, if they exceed the rates specified in Section B of Schedule V to these Rules, require the approval of the Central Government.

DEPARTMENT OF LABOUR.

New Delhi, the 21st October 1941.

No. T. R. (B)-I.—In exercise of the powers conferred by section 18 of the **National Service (Technical Personnel) Ordinance, 1940** (II of 1940), the Central Government is pleased to direct that persons normally employed in the capacity specified below shall be deemed to be technical personnel for the purposes of the said Ordinance, namely:—

Estimators.

Published in the "*Gazette of India*", Part I, dated the 1st November 1941.

DEPARTMENT OF COMMERCE.

New Delhi, the 1st November 1941.

No. 230-Ind.(1)/41.—In exercise of the powers conferred by section 72 of the **Indian Patents and Designs Act, 1911** (II of 1911), the Central Government is pleased to appoint the Provincial Governments of Madras, United Provinces, Bihar, Punjab, Bombay and Bengal, the Chief Commissioner of Delhi, the Controller of Patents and Designs and Registrar of Trade Marks, Calcutta and the Deputy Registrar of Trade Marks, Bombay as authorities for the purposes of the said section.

No. 708-I (1)/41.—In pursuance of section 110A of the **Insurance Act 1938** (IV of 1938), the Superintendent of Insurance hereby delegates to Assistant Superintendents of Insurance his powers and duties under section 3A and 70A of the said Act.

Published in the "*Gazette of India*", Part I, dated the 8th November 1941.

CENTRAL BOARD OF REVENUE.

New Delhi, the 8th November 1941.

No. 27.—In exercise of the powers conferred by sub-section (7) of section 59 of the **Indian Income-tax Act, 1922** (XI of 1922), the Central Board of Revenue directs that the following further amendment shall be made in the Indian Income-tax Rules, 1922, the same having been previously published as required by sub-section (4) of the said section, namely:—

After rule 21 of the said Rules, the following rule shall be inserted, namely:—

"21-A. The forms of appeal prescribed by rules 21 and 40-B and by the notifications of the Government of India in the Finance Department

(Central Revenues), No. 14-Income-tax, dated the 2nd April 1932, No. 21-Income-tax, dated the 5th June 1937, No. 69-Income-tax, dated the 16th September 1939 and No. 1-Income-tax, dated the 4th January 1941 and the forms of verification appended thereto shall be signed—

- (a) in the case of an individual, by the individual himself;
- (b) in the case of a Hindu undivided family, by the Manager or *Karta*;
- (c) in the case of a company or local authority, by the principal officer;
- (d) in the case of a firm, by a partner; and
- (e) in the case of any other association, by a member of the association."

Published in the "*Gazette of India*", Part I, dated the 15th November, 1941.
HOME DEPARTMENT.

New Delhi, the 13th November 1941.

No. 123/41.—In exercise of the powers conferred by section 35 of the **Court fees Act, 1870** (VII of 1870), the Central Government is pleased to remit the fees leviable under article 6 of Schedule I and clause (a) of article 11 of Schedule II to the said Act in respect of appeals filed by assesseees or Income-tax Officers before the Appellate Tribunal constituted under section 5A of the Indian Income-tax Act, 1922 (XI of 1922).

FINANCE DEPARTMENT (CENTRAL REVENUES).

New Delhi, the 15th November 1941.

No 50.—In exercise of the powers conferred by section 7 of the **Matches (Excise Duty) Act, 1934** (XVI of 1934), the Central Government is pleased to prohibit absolutely the bringing of matches into British India from the territory of the Kachhanpore State in the Western India States Agency, with effect from the 16th November 1941.

DEPARTMENT OF COMMERCE.

New Delhi, the 15th November 1941.

No. 40-W. R. 1./41.—In exercise of the powers conferred by section 14 of the **War Risks (Goods) Insurance Ordinance, 1940**, (No. IX of 1940), the Central Government is pleased to direct that the following further amendment shall be made in the War Risks (Goods) Insurance Rules, namely:—

In the Third Schedule annexed to the said Rules, under the heading "Instructions", for paragraph 3, the following paragraph shall be substituted, namely:—

'3. **GOODS NOT INSURABLE:** A list of goods which cannot be insured under the scheme has been published in the Gazette. For precise details of the goods concerned reference should be made to that list, but an idea of the kind of goods exempted may be obtained from the following:

Growing crops; plants and trees; live-stock; fleeces and the skins of animals; coal and coke; ores and scrap of certain metals and alloys thereof; certain kinds of bricks, tiles and slates, certain specified kinds of manufactured iron and steel; gold, silver and other precious metals and manufactures and alloys thereof in specified forms; postage stamps; objects of art and craftsmanship not less than 100 years old; cement and lime; specified varieties of certain metals and alloys thereof; natural pearls; jewellery and precious and semi-precious stones; concrete products; certain specified kinds of printing machinery; and goods not for sale.

Central Acts, 1940-41.

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CENTRAL ACTS

LEGISLATIVE DEPARTMENT.

New Delhi, the 30th November, 1940.

The following Act, which has been assented to by the Governor General under the provisions of clause (b) of sub-section (1) of section 67B of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, and has been expressed to be made by the Governor General under the provisions of sub-section (2) of the same section, is published for general information in the *Gazette of India*, Extraordinary, dated the 30th November, 1940.

The Indian Finance (No. 2) Act, 1940.

An Act to alter the maximum rates of postage under the Indian Post Office Act, 1898, to increase the rates of the taxes on income imposed by the Indian Finance Act, 1940, by a surcharge for the purposes of the Central Government, and to increase the rate of super-tax payable by companies.

WHEREAS it is expedient to alter the maximum rates of postage under the Indian Post Office Act, 1898, to increase the rates of the taxes on income imposed by the Indian Finance Act, 1940, by a surcharge for the purposes of the Central Government, and to increase the rate of super-tax payable by companies;

It is hereby enacted as follows:—

1. Short title and extent.—(1) This Act may be called the Indian Finance (No. 2) Act, 1940.

(2) It extends to the whole of British India.

2. Inland postage rates.—In the First Schedule to the Indian Post Office Act, 1898, as inserted in that Act by section 6 of the Indian Finance Act, 1940,—

(a) in the first entry under the heading "*Letters*", for the words "*One anna*" the words "*One and a quarter annas*" shall be substituted;

(b) for the first entry under the heading "*Book, Pattern and Sample Packets*" the following entry shall be substituted, namely:—

"For the first five tolas or fraction thereof.....Nine pies";

(c) in the second entry under the heading "*Book, Pattern and Sample Packets*", for the words "*in excess of two and a half tolas*" the words "*in excess of five tolas*" shall be substituted.

3. Income-tax and super-tax.—(1) Subject to the provisions of this section, the rates of income-tax, and the rates of super-tax other than super-tax payable by a company, imposed by sub-section (1) of section 7 of the Indian Finance Act, 1940, shall in respect of the year beginning on the 1st day of April, 1940, be increased by a surcharge for the purposes of the Central Government amounting to one-twelfth of each such rate, and the rate of super-tax payable by a company imposed by the said sub-section shall in respect of the same year be increased by one-twelfth.

(2) In making any assessment for the year ending on the 31st day of March, 1941,—

(a) where the total income of an assessee, not being a company, includes any income chargeable under the head "*Salaries*" or under the head "*Interest*"

on Securities", or any income from dividends in respect of which he is deemed under section 49B of the Indian Income-tax Act, 1922, to have paid income-tax imposed in British India, the income-tax payable by the assessee on that part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income-tax payable according to the rates in force before the commencement of this Act on his total income the same proportion as the amount of such inclusions bears to his total income;

(b) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" on which super-tax has been or might have been deducted under the provisions of sub-section (2) of section 18 of the Indian Income-tax Act, 1922, the super-tax payable by the assessee on that portion of his total income which consists of such inclusions shall be an amount bearing to the total amount of super-tax payable according to the rates in force before the commencement of this Act on his total income the same proportion as the amount of such inclusions bears to his total income.

(3) For the purposes of the proviso to sub-section (2) of section 18 of the Indian Income-tax Act, 1922, the amount by which any deduction made under that sub-section by a person responsible for paying any income chargeable under the head "Salaries" falls short of the deduction which could have been made had the rates imposed by this Act then been in force shall be deemed to be a deficiency arising out of a previous deduction or failure to deduct.

(4) Notwithstanding that the Income-tax Officer has assessed the total income of an assessee and has determined the sum payable thereon under section 23 of the Indian Income-tax Act, 1922, he may proceed to determine the further sum payable by such assessee by virtue of sub-section (1) of this section, and such further sum shall for the purposes of the Indian Income-tax Act, 1922, be deemed to be a sum determined under section 23 of that Act.

This Bill has been consented to by the Council of State.

The 28th November, 1940.

I assent to this Bill.

M. B. DADABHOY,
President, Council of State.

The 29th November, 1940.

LINLITHGOW,
Viceroy and Governor General.

This Act has been made by me as Governor General under the provisions of section 67B of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935.

The 29th November, 1940.

LINLITHGOW,
Viceroy and Governor General.

WHEREAS I, Victor Alexander John, Marquess of Linlithgow, am of opinion that a state of emergency exists which justifies the direction by me that the Indian Finance (No. 2) Act, 1940, being an Act made by me under the provisions of section 67-B of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, shall come into operation forthwith:

NOW, THEREFORE, in exercise of the power conferred by the proviso to sub-section (2) of that section, I do hereby direct accordingly

The 29th November, 1940.

LINLITHGOW,
Viceroy and Governor General.

The Indian Works of Defence (Amendment) Act, 1940.

Received the assent of the Governor General on the 27th November, 1940, and is published in the *Gazette of India*, Part IV, dated the 30th November, 1940.

Act No. XXVIII of 1940.

An Act further to amend the Indian Works of Defence Act, 1903.

WHEREAS it is expedient further to amend the Indian Works of Defence Act, 1903, for the purpose hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Indian Works of Defence (Amendment) Act, 1940.

Notes.

Object—“The Bill is designed to modify the restrictions which attach by virtue of section 7 of the Indian Works of Defence Act, 1903, to land in the vicinity of a work of defence in consequence of the publication of the notice mentioned in section 3 (2) of that Act so as to make it possible to exempt from demolition specified buildings existing at the time of issue of the notice and permit those buildings to be maintained in the same condition.” (*Vide* Statement of Objects and Reasons, published in the *Gazette of India*, Part V, dated the 9th November, 1940).

2. *Amendment of section 7, Act VII of 1903.*—In section 7 of the Indian Works of Defence Act, 1903,—

(a) in sub-clause (i) of clause (b), for the words preceding the first proviso the following words shall be substituted, namely :—

“no building, wall, bank or other construction of permanent materials above the ground shall be maintained otherwise than with the written approval of the General Officer Commanding the District and on such conditions as he may prescribe, and no such building, wall, bank or other construction shall be erected :” ;

(b) in the proviso to clause (c), after the word “prescribe” the following words shall be inserted, namely :—

“a building or other construction on the surface may be maintained and.”

The Indian Navy (Discipline) Amendment Act, 1940.

Received the assent of the Governor General on the 27th November, 1940, and is published in the *Gazette of India*, Part IV, dated the 30th November, 1940.

Act No. XXIX of 1940.

An Act further to amend the Indian Navy (Discipline) Act, 1934, for certain purposes.

WHEREAS it is expedient further to amend the Indian Navy (Discipline) Act, 1934, for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Indian Navy (Discipline) Amendment Act, 1940.

Notes.

Object—“The U. K Naval Discipline Act provides for the imposition of purely naval punishments, such as the deprivation of good conduct badges, cell punishment, etc., for various offences for which imprisonment or fine may not be altogether suitable. Section 45 of the Indian Navy (Discipline) Act,

1934, however, renders the imposition of such punishments illegal. It is accordingly proposed to amend that section so as to make legal the imposition of minor punishments according to the customs of the Navy. The amendment to section 55 of the Act is of a formal character." (*Vide* Statement of Objects and Reasons, published in the *Gazette of India*, Part V, dated the 9th November, 1940).

2. Amendment of First Schedule to Act XXXIV of 1934.—In the Naval Discipline Act as set out in the First Schedule to the Indian Navy (Discipline) Act, 1934,—

(a) to the first paragraph of section 45 the following shall be added, namely:—

"or, except in the case of an offence punishable under the said section 302 or 377, with such other punishment as is hereinafter mentioned";

and

(b) in section 55, for the words "corporal punishment shall be deemed equal in degree to imprisonment, and" the following shall be substituted, namely:—

"transportation shall be deemed equal in degree to penal servitude, and corporal punishment shall be deemed equal in degree to imprisonment and."

The Indian Navy (Discipline) Second Amendment Act, 1940.

Received the assent of the Governor General on the 27th November, 1940 and is published in the *Gazette of India*, Part IV, dated the 30th November, 1940.

Act No. XXX of 1940.

An Act further to amend the Indian Navy (Discipline) Act, 1934.

WHEREAS it is expedient further to amend the Indian Navy (Discipline) Act, 1934, for the purpose hereinafter appearing;

It is hereby enacted as follows:—

1. Short title.—This Act may be called the Indian Navy (Discipline) Second Amendment Act, 1940.

Notes.

Object.—"The Indian Navy (Discipline) Act, 1934, provides for the discipline of the members of the Indian Naval Forces when serving in His Majesty's Navy or in the Naval Forces of a self-governing Dominion, but there is no such provision for their discipline when serving with the Naval Forces of Burma.

2. It is proposed to make additions to the Act as shown in the Bill to provide for the discipline of the Indian Naval Forces when serving with the Naval Forces of Burma." (*Vide* Statement of Objects and Reasons, published in the *Gazette of India*, Part V, dated the 9th November, 1940).

2. Amendment of First Schedule, Act XXXIV of 1934.—In sub-section (1) of section 90C of the Naval Discipline Act as set forth in the First Schedule to the Indian Navy (Discipline) Act, 1934, after the words "self-governing Dominion", wherever they occur, the words "or Burma" shall be inserted.

The Cantonments (Amendment) Act, 1940.

Received the assent of the Governor General on the 27th November, 1940 and is published in the *Gazette of India*, Part IV, dated the 30th November, 1940.

Act No. XXXI of 1940.

An Act further to amend the Cantonments Act, 1924.

WHEREAS it is expedient further to amend the Cantonments Act, 1924, for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Cantonments (Amendment) Act, 1940.

Notes.

Object.—“The purpose of the Bill is to remove certain difficulties which have been experienced by the authorities concerned with the administration of Cantonments under the Cantonments Act, 1924 (II of 1924), since the passing of the Cantonments (Amendment) Act, 1936 (XXIV of 1936). The object of each of the proposed amendments is explained in the notes * * * (Vide Statement of Objects and Reasons, published in the *Gazette of India*, Part V, dated the 9th November, 1940).

2. *Amendment of section 27, Act II of 1924.*—For clause (i) of sub-section (2) of section 27 of the Cantonments Act, 1924 (hereinafter referred to as the said Act), the following clause shall be substituted, namely :—

“(i) is not either a British subject or a subject of an Indian State, or”.

3. *Amendment of section 32, Act II of 1924.*—In section 32 of the said Act, after the words, “meeting of the Board” the words “or of any committee of the Board” shall be inserted.

4. *Amendment of section 34, Act II of 1924.*—In section 34 of the said Act,—

(a) in clause (a) of sub-section (1), for the words, brackets and figures “or in sub-section (2) of section 28” the words and figures “or in section 28” shall be substituted ;

(b) after sub-section (2) the following sub-section shall be inserted, namely :—

“(2A) The Central Government may, on receipt of a report from the Officer Commanding the station, through the Officer Commanding-in-Chief, the Command, remove from a Board any military officer nominated a member of the Board who is, in the opinion of the Officer Commanding the station, unable to discharge his duties as member of the Board and has failed to resign his office.”

5. *Amendment of section 35, Act II of 1924.*—In sub-section (1) of section 35 of the said Act, after the word, brackets and figure “sub-section (1)” the words, brackets, figure and letter “or under sub-section (2A)” shall be inserted.

6. *Amendment of section 186, Act II of 1924.*—In clause (b) of section 186 of the said Act, for the words “in any specified area or areas” the words “in the cantonment or any part thereof” shall be substituted.

7. *Amendment of section 188, Act II of 1924.*—In section 188 of the said Act, for the word “building” the word “structure” shall be substituted.

8. *Amendment of Schedule V, Act II of 1924.*—In Schedule V to the said Act, the entry relating to section 137 shall be omitted.

The Repealing and Amending Act, 1940.

Received the assent of the Governor General on the 27th November, 1940, and is published in the *Gazette of India*, Part IV, dated the 30th November, 1940.

Act No. XXXII of 1940.***An Act to Repeal certain enactments and to amend certain other enactments.***

WHEREAS it is expedient that the enactments specified in the First Schedule, which are spent or have otherwise become unnecessary, or have ceased to be in force otherwise than by expressed specific repeal, should be expressly and specifically repealed ;

AND WHEREAS it is expedient that certain amendments should be made in the enactments specified in the Second Schedule ;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Repealing and Amending Act, 1940.

Notes.

Object.—“The Bill is intended to remove from the Statute-book certain Acts or portions of Acts which have either ceased to have effect or ceased to be in force, and to correct small errors detected in the Acts included in the Second Schedule. The notes which follow explain the circumstances underlying each item of the Bill. Clause 4 of the Bill contains the precautionary provisions which it is usual to include in all Bills of this kind.” (*Vide* Statement of Objects and Reasons, published in the *Gazette of India*, Part V, dated the 9th November, 1940).

2. *Repeal of certain enactments.*—The enactments specified in the First Schedule are hereby repealed to the extent mentioned in the fourth column thereof.

3. *Amendment of certain enactments.*—The enactments specified in the Second Schedule are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

4. The repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to ;

and this Act shall not affect the validity, invalidity, effect or consequences of anything already done or suffered or any right, title, obligation or liability already acquired, accrued or incurred, or any remedy or proceeding in respect thereof, or any release or discharge of or from any debt, penalty, obligation, liability, claim or demand or any indemnity already granted, or the proof of any past act or thing ;

nor shall this Act affect any principle or rule of law, or established jurisdiction, form or course of pleading, practice or procedure, or existing usage, custom, privilege, restriction, exemption, office or appointment, notwithstanding that the same respectively may have been in any manner affirmed, recognised or derived by, in or from any enactment hereby repealed ;

nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

FIRST SCHEDULE.

REPEALS.

(See section 2.)

Year. 1	No. 2	Short title. 3	Extent of repeal. 4
<i>Acts of the Governor General in Council.</i>			
1836	XX ...	The Batwaras Act, 1836.	The whole in any areas where not already specifically repealed.
1837	XXVII	The Bombay Salt Works Act, 1837.	The whole in any areas where not already specifically repealed.
1838	XI ...	The Bengal Ameens Act, 1838.	The whole in any areas where not already specifically repealed.
1838	XVIII...	The Bombay Sureties Act, 1838.	The whole.
1848	XVIII...	The Nawab of Surat Act, 1848.	The whole in any areas where not already specifically repealed.
1858	XXXVII	The Nawab of Carnatic Act, 1858.	The whole.
1859	XIV ...	The Summary Dispossession Act, 1859.	The whole in any areas where not already specifically repealed.
1868	XIII ...	The King of Oudh's Act, 1868.	The whole.
1873	XVII ...	The Nawab Nazim's Debts Act, 1873.	The whole.
1895	XX ...	Ex-King Thebaw's Act, 1895	The whole.
<i>Acts of the Indian Legislature.</i>			
1931	I ...	The Punjab Criminal Procedure Amendment (Supplementary) Act, 1931.	The whole.
1931	XIV ...	The Salt (Additional Import Duty) Act, 1931.	The whole.
1933	XXIV...	The Indian Tea Control Act, 1933.	The whole.
1933	XVII	The Indian Wireless Telegraphy Act, 1933.	Section 9, and in section 10 (2) the word "and" at the end of clause (v) and the whole of clause (vi).
1936	II ...	The Salt Additional Import Duty (Extending) Act, 1936.	The whole.
1936	VI ..	The Cochin Port Act, 1936.	The whole.
1936	VII ...	The Indian Aircraft (Amendment) Act, 1936.	The whole.

Year. 1	No. 2	Short title. 3	Extent of repeal. 4
1936	VIII	The Factories (Amendment) Act, 1936.	The whole.
1936	IX	The Indian Lac Cess (Amendment) Act, 1936.	The whole.
1936	X	The Indian Tariff (Amendment) Act, 1936.	The whole.
1936	XI	The Indian Mines (Amendment) Act, 1936.	The whole.
1936	XII	The Indian Tariff (Second Amendment) Act, 1936.	The whole.
1936	XIII	The Indian Tea Cess (Amendment) Act, 1936.	The whole.
1936	XV	The Indian Rubber Control (Amendment) Act, 1936.	The whole.
1936	XVII	The Indian Tea Control (Amendment) Act, 1936.	The whole.
1936	XIX	The General Clauses (Amendment) Act, 1936.	The whole.
1936	XX	The Chittagong Port (Amendment) Act, 1936.	The whole.
1936	XXI	The Code of Civil Procedure (Amendment) Act, 1936.	The whole.
1936	XXIV	The Cantonments (Amendment) Act, 1936.	The whole.
<i>Act of the Governor General.</i>			
1936	...	The Indian Finance Act, 1936.	In the long title and preamble, the words and figures "to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to fix maximum rates of postage under the Indian Post Office Act, 1898, and". Sections 2 and 3 and Schedule I.

Year. 1	No. 2	Short title. 3	Extent of repeal 4
<i>Act of the Governor of Bombay in Council.</i>			
1867	VI	The Bombay City Sanitary Regulation Act, 1867.	So much of the Act as relates to any matter included in the Federal Legislative List.
<i>Regulations made by the Governor General in Council.</i>			
1936	VIII	The Andaman and Nicobar Islands Land-tenure (Amendment) Regulation, 1936.	The whole.
1936	IX	The Sind Laws (Amendment) Regulation, 1936.	The whole.
1936	X	The Sind Laws (Second Amendment) Regulation, 1936.	The whole.
1936	XI	The Orissa Laws (Amendment) Regulation, 1936.	The whole.
1936	XV	The British Baluchistan Laws (Amendment) Regulation, 1936.	The whole.

THE SECOND SCHEDULE.

AMENDMENTS.

(See section 3.)

Year. 1	No. 2	Short title. 3	Amendments. 4
<i>Acts of the Governor General in Council.</i>			
1897	X	The General Clauses Act, 1897.	For clause (27b) of section 3 the following clause shall be substituted, namely :— “(27b) ‘Indian State’ shall mean any territory, not being part of British India, which His Majesty recognises as being such a State whether described as a State, an Estate, a ‘Jagir’ or otherwise ;”
1908	XVI	The Indian Registration Act, 1908.	In section 29 (1), for the words and figures “other than a document referred to in section 28,

Year. 1	No. 2	Short title. 3	Amendments. 4
			and a copy of a decree or order" the words and figures "not being a document referred to in section 28 or a copy of a decree or order" shall be substituted.
1910	IX ...	The Indian Electricity Act, 1910.	In section 52 the word "Indian" shall be omitted.
1913	III ...	The Administrator General's Act, 1913.	In section 33, for the word "presidency" the word "division" shall be substituted.
1913	VII ...	The Indian Companies Act, 1913.	In sub-sections (1) and (3) of section 152 the word "Indian" shall be omitted. In sub-section (6) of section 208C, for the words and figures "Indian Arbitration Act, 1899" the words and figures "Arbitration Act, 1940" shall be substituted.

Acts of the Indian Legislature.

1922	VIII ...	The Delhi University Act, 1922.	In sub-section (2) of section 46, for the figures "1897" the figures "1925" shall be substituted.
1923	VI ...	The Cantonments (House-Accommodation) Act, 1923.	In sub-section (3) of section 36, for the word "Authority" the word "Board" shall be substituted.
1923	XIV ...	The Indian Cotton Cess Act, 1923.	In clause (1a) of section 4 the words "in agricultural matters" shall be omitted.
1924	II ...	The Cantonments Act, 1924.	In sub-section (5) of section 73, for the words "every transfer on devolution" the words "every transfer or devolution" shall be substituted. In clause (a) of sub-section (2) of section 254, for the words "on any one of them" the words "to any one of them" shall be substituted.
1937	VI ...	The Arbitration (Protocol and Convention) Act, 1937.	In section 3, for the words and figures "Indian Arbitration Act, 1899" the words and figures "Arbitration Act, 1940" shall be substituted.

Year. 1.	No. 2	Short title. 3	Amendments. 4
<i>Acts of the Central Legislature.</i>			
1937	XVIII ...	The Hindu Women's Rights to Property Act, 1937.	In sub-section (2) of section 1, the words "including British Baluchistan and the Sonthal Parganas but excluding Burma" shall be omitted.
1937	XIX ...	The Arya Marriage Validation Act, 1937.	In sub-section (2) of section 1, the words "including British Baluchistan and the Sonthal Parganas" shall be omitted.

Regulation made by the Governor General in Council.

1913	II ...	The British Baluchistan Laws Regulation, 1913.	In Schedule I, for the item— "1934 XXXIV The Indian Tariff Act, 1932. the following item shall be substituted, namely:— "1934 XXXII The Indian Tariff Act, 1934.	Section 5 only."
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Regulation made by the Governor General.

1939	VI ...	The British Baluchistan Criminal and Civil Justice and Laws Extension Regulation, 1939.	In clause (c) of section 3, for the item— "1934 XXXIV The Indian Tariff Act, 1932. the following item shall be substituted, namely:— "1934 XXXII The Indian Tariff Act, 1934.	Section 5 only."
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The Indian Registration (Amendment) Act, 1940.

Received the assent of the Governor General on the 27th November, 1940, and is published in the *Gazette of India*, Part IV, dated the 30th November, 1940.

Act No. XXXIII of 1940.

An Act further to amend the Indian Registration Act, 1908, for certain purposes.

WHEREAS it is expedient further to amend the Indian Registration Act, 1908, for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Indian Registration (Amendment) Act, 1940.

Notes.

Object.—"As the law stands at present, documents referred to in clauses (a) to (d) of section 17 (1) of the Indian Registration Act, 1908, fall for the purpose of registration under section 28, whereas documents referred to in clause (e) of section 17 (1) fall under section 29. The result is that if a document of the kind referred to in clause (e) of section 17 (1) is registered at the office of a Sub-Registrar within whose jurisdiction no portion of the immovable property affected thereby is situate, the Sub-Registrar will neither index the property in his own office nor send a memorandum or copy of the document under section 64 or section 65 of the Indian Registration Act to the other Sub-Registrar or Registrar within whose local jurisdiction such property is situate. Consequently, there will be no index of the immovable property assigned by such instruments in any registration office. It is therefore intended to remove this defect by an amendment of section 28 of the Act.

2. Section 18 of the Act is being amended so as to bring it into conformity with section 17 of the Act." (*Vide* Statement of Objects and Reasons, published in the *Gazette of India*, Part V, dated the 9th November, 1940).

2. *Amendment of section 18, Act XVI of 1908.*—In section 18 of the Indian Registration Act, 1908 (hereinafter referred to as the said Act), after clause (c) the following clause shall be inserted, namely :—

"(cc) instruments transferring or assigning any decree or order of a Court or any award when such decree or order or award purports or operates to create, declare, assign, limit or extinguish, whether in present or in future, any right, title or interest, whether vested or contingent, of a value less than one hundred rupees, to or in immoveable property ;"

3. *Amendment of section 28, Act XVI of 1908.*—In section 28 of the said Act,—

(a) for the word, brackets and letter "and (d)" the words, brackets, letters and figures ", (d) and (e), section 17, sub-section (2), in so far as such document affects immoveable property," shall be substituted ; and

(b) for the word, brackets and letter "and (c)" the word, brackets and letters ", (c) and (cc)" shall be substituted.

The Code of Civil Procedure (Amendment) Act, 1940.

Received the assent of the Governor General on the 27th November, 1940, and is published in the *Gazette of India*, Part IV, dated the 30th November, 1940.

Act No. XXXIV of 1940.

An Act further to amend the Code of Civil Procedure, 1908.

WHEREAS it is expedient further to amend the Code of Civil Procedure, 1908, for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Code of Civil Procedure, (Amendment) Act, 1940.

Notes.

Object.—"Section 29 of the Code of Civil Procedure, 1908, as it stood prior to its adaptation by the Government of India (Adaptation of Indian Laws) Order, 1937, ran as follows:—

"29. Summonses issued by any Civil or Revenue Court situated beyond the limits of British India may be sent to the Courts in British India and served as if they had been issued by such Courts:

Provided that the Courts issuing such summonses have been established or continued by the authority of the Governor General in Council, or that the Governor General in Council has, by notification in the *Gazette of India*, declared the provisions of this section to apply to such Courts."

After its adaptation the proviso runs as follows:—

"Provided that the Courts issuing such summonses have been established or continued by the authority of the Central Government or of the Crown Representative, or that the Provincial Government by whose Courts a summons is to be served has by notification in the Official Gazette declared the provisions of this section to apply to Courts of the Province

The substitution of the words "Courts of the Province" for the words "such Courts" previously occurring at the end of the proviso was evidently "made *per incuriam* as the obvious intention of the proviso is that summonses issued by such Courts only outside British India (other than the Courts specifically described therein) as have been notified by the Government of a Province could be served by the Courts of such Province. The proviso as now worded produces the curious result that the Courts of the Province mentioned in the notification would be required to serve summonses issued by Courts of any country outside British India irrespective of whether or not such country has entered into a reciprocal arrangement in this behalf with British India. The present Bill is intended to rectify the mistake made in adaptation.

The opportunity has also been taken—

(1) to make it clear that processes other than summonses issued by foreign Courts may also be served under section 29 of the Code; and

(2) to correct the obsolete reference to the Indian Limitation Act, 1877, in clause (b) of sub-section (2) of section 48 of the Code." (*Vide* Statement of Objects and Reasons, published in the *Gazette of India*, Part V, dated the 9th November, 1940).

2. *Amendment of section 29, Act V of 1908.*—(1) In section 29 of the Code of Civil Procedure, 1908 (hereinafter referred to as the said Code),—

(a) in the paragraph preceding the proviso—

(i) after the word "Summonses" the word "and other processes" shall be inserted;

14 THE CODE OF CRIMINAL PROCEDURE (AMENDMENT) ACT, 1940.

(ii) for the words "had been" the words "were summonses" shall be substituted ; and

(b) in the proviso—

(i) after the word "summonses" the words "or processes" shall be inserted ;

(ii) for the words "by whose Courts a summons is" the words "of the Province in which such summonses or processes are" shall be substituted ;

(iii) for the words "Courts of the Province" the words "such Courts" shall be substituted.

(2) The substitution made in the said Code by sub-clause (iii) of clause (b) of sub-section (1) and the substitution so made by sub-clause (i) of the said clause with the omission of the words "or processes" shall be deemed to have taken effect on the 1st day of April, 1937.

Notes.

SECTION 29 THUS AMENDED RUNS AS FOLLOWS :—

"29. *Service of foreign summonses.*—Summonses and other processes issued by any Civil or Revenue Court situate beyond the limits of British India may be sent to the Courts in British India and served as if they were summonses issued by such Courts:

Provided that the Courts issuing such summonses or processes have been established or continued by the authority of the Central Government or of the Crown Representative, or that the Provincial Government of the Province in which such summonses or processes are to be served has by notification in the official Gazette declared the provisions of this section to apply to such Courts "

3. *Amendment of section 48, Act V of 1908.*—In clause (b) of sub-section (2) of section 48 of the said Code, for the figures and words "180 of the Second Schedule to the Indian Limitation Act, 1877" the figures and words "183 of the First Schedule to the Indian Limitation Act, 1908" shall be substituted.

Notes.

CLAUSE (b) OF SUB-SECTION (2) OF SECTION 48 THUS AMENDED RUNS AS FOLLOWS :—

(b) to limit or otherwise affect the operation of article 183 of the First Schedule to the Indian Limitation Act, 1908.

The Code of Criminal Procedure (Amendment) Act, 1940.

Received the assent of the Governor General on the 27th November, 1940, and is published in the *Gazette of India*, Part IV, dated the 30th November, 1940.

Act No. XXXV of 1940.

An Act further to amend the Code of Criminal Procedure, 1898.

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898, for the purpose hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Code of Criminal Procedure (Amendment) Act, 1940.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf

Notes.

Object.—"Section 503 of the Code of Criminal Procedure, 1898, lays down that whenever, in the course of an enquiry, a trial or any other proceeding, it appears to a Presidency Magistrate, a District Magistrate, a Court of Session or a High Court that the examination of a witness is necessary for the ends of justice, and that the attendance of such witness cannot be procured without an amount of delay, expense or inconvenience which, under the circumstances of the case, would be unreasonable, such Magistrate or Court may dispense with such attendance and may issue a commission to any District Magistrate or Magistrate of the first class, within the local limits of whose jurisdiction such witness resides, to take the evidence of such witness. Prior to the 1st April, 1937, such commissions could be issued for the taking of evidence of persons residing in Burma, but since the separation of the Province from British India it is no longer possible for British Indian Courts to obtain the evidence of witnesses in Burma on commission in criminal cases. The Bill proposes to empower British Indian Courts to issue commissions to any District Magistrate or Magistrate of the first class in British Burma to take evidence of persons residing within the local limits of his jurisdiction, and also to empower the British Indian Courts to execute commissions issued by Courts in British Burma. The Government of Burma have agreed to this course and to undertake reciprocal legislation on their side so far as commissions issued by British Indian Courts for execution in British Burma and the issue of commissions by Courts in British Burma for execution in British India are concerned." (*Vide* Statement of Objects and Reasons, published in the *Gazette of India*, Part V, dated the 9th November, 1940).

2. *Amendment of section 503, Act V of 1898.*—After sub-section (2) of section 503 of the Code of Criminal Procedure, 1898 (hereinafter referred to as the said Act), the following sub-section shall be inserted, namely:—

"(2A) When the witness resides in British Burma, the commission may be issued to any District Magistrate or Magistrate of the first class within the local limits of whose jurisdiction in British Burma such witness resides."

3. *Insertion of new section 508A in Act V of 1898.*—After section 508 of the said Act the following section shall be inserted, namely:—

"508A. *Application of this Chapter to commissions issued in British Burma.*—The provisions of sub-section (3) of section 503, sub-sections (1) and (1A) of section 504 and so much of sections 505 and 507 as relates to the execution of a commission and its return by the Magistrate or officer to whom the commission is directed shall apply in respect of commissions issued by a Magistrate or Court in British Burma under the law in force in British Burma relating to commissions for the examination of witnesses, as they apply to commissions issued under section 503 or section 506."

The Indian Companies (Amendment) Act, 1940.

Received the assent of the Governor General on the 27th November, 1940 and is published in the *Gazette of India*, Part IV, dated the 30th November, 1940.

Act No. XXXVI of 1940.

An Act further to amend the Indian Companies Act, 1913.

WHEREAS it is expedient further to amend the Indian Companies Act, 1913, for the purpose hereinafter appearing;

It is hereby enacted as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Indian Companies (Amendment) Act, 1940.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

Notes.

Object.—“The Indian Companies Act, 1913 (VII of 1913), does not contain provisions for the custody of unclaimed dividends and undistributed assets of companies in liquidation or for the disposal of subsequent lawful claims to such moneys and, in the absence of such provisions, there has been considerable diversity of opinion as to the law applicable to these matters in British India. The question of rectifying this unsatisfactory position has been considered by the Government of India in consultation with the Provincial Governments, the Chief Commissioners and the High Courts, and opinion is unanimous that the legal position in this respect should be remedied by legislation. The present Bill is designed to achieve this object, and follows generally the lines of the English Companies Act, 1929 (sections 285 and 300), and the relevant provisions of the English Companies (Winding-up) Rules, 1929 (rules 195 to 201), with such modifications as are suited to Indian conditions.” (*Vide* Statement of Objects and Reasons, published in the *Gazette of India*, Part IV, dated the 9th November, 1940).

2 *Insertion of new section 244B in Act VII of 1913.*—After section 244A of the Indian Companies Act, 1913, the following section shall be inserted, namely :—

“244B. *Unclaimed dividends and undistributed assets to be paid to Companies Liquidation Account*—(1) Where any company is being wound up, if the liquidator has in his hands or under his control any money of the company representing unclaimed dividends payable to any creditor or undistributed assets refundable to any contributory which have remained unclaimed or undistributed for six months after the date on which they became payable or refundable, the liquidator shall forthwith pay the said money into the Reserve Bank of India to the credit of the Central Government in an account to be called the Companies Liquidation Account, and the liquidator shall, on the dissolution of the company, similarly pay into the said account any money representing unclaimed dividends or undistributed assets in his hands at the date of dissolution.

(9) The liquidator shall, when making any payment referred to in sub-section (1), furnish to such officer as the Central Government may appoint in this behalf a statement in the prescribed form setting forth in respect of all sums included in such payment the nature of the sums, the names and last known addresses of the persons entitled to participate therein, the amount to which each is entitled and the nature of his claim thereto, and such other particulars as may be prescribed.

(3) The receipt of the Reserve Bank of India for any money paid to it under sub-section (1) shall be an effectual discharge of the liquidator in respect thereof.

(4) Where the company is being wound up by the Court, the liquidator shall make the payments referred to in sub-section (1) by transfer from the special banking account referred to in sub-section (3) of section 244A, and where the company is wound up voluntarily, or subject to the supervision of the Court, the liquidator shall, when filing a statement in pursuance of sub-section (1) of section 244, indicate the sum of money which is payable to the

Reserve Bank of India under sub-section (1) which he has had in his hands or under his control during the six months preceding the date to which the said statement is brought down, and shall, within fourteen days of the date of filing the said statement, pay that sum into the Companies Liquidation Account.

(5) Any person claiming to be entitled to any money paid into the Companies Liquidation Account in pursuance of this section may apply to the Court for an order for payment thereof, and the Court, if satisfied that the person claiming is entitled, may make an order for the payment to that person of the sum due :

Provided that before making such order the Court shall cause a notice to be served on such officer as the Central Government may appoint in this behalf calling on the officer to show cause within one month from the date of the service of the notice why the order should not be made.

(6) Any money paid into the Companies Liquidation Account in pursuance of this section, which remains unclaimed thereafter for a period of fifteen years, shall be transferred to the general revenue account of the Central Government; but any claim preferred under sub-section (5) to any money so transferred shall be allowable as if such transfer had not been made, the order for payment on such claim being treated as an order for refund of revenue.

(7) Any liquidator retaining any money which should have been paid by him into the Companies Liquidation Account under this section shall pay interest on the amount retained at the rate of twenty per cent. per annum and shall also be liable to pay any expenses occasioned by reason of his default, and, where the winding up is by or under the supervision of the Court, he shall also be liable to disallowance of all or such part of his remuneration as the Court may think just and to be removed from his office by the Court.

(8) Nothing in this section shall apply in relation to companies with objects confined to a single Province which are not trading corporations."

The War Donations and Investments (Companies) Act, 1940.

Received the assent of the Governor General on the 27th November, 1940, and is published in the *Gazette of India*, Part IV, dated the 30th November, 1940.

Act No. XXXVII of 1940.

An Act to enable companies in British India to make donations to public funds formed, and to make investments in Government loans floated, for the purpose of assisting the prosecution of the present war.

WHEREAS it is expedient to enable companies in British India to make donations to public funds formed, and to make investments in Government loans floated, for the purpose of assisting the prosecution of the present war ;

AND WHEREAS it is also expedient to remove doubts as to the legality of such donations and investments already made ;

It is hereby enacted as follows :—

1. Short title.—This Act may be called the War Donations and Investments (Companies) Act, 1940.

Notes.

Object.—"Cases have come to light in which certain clubs registered under the Indian Companies Act, 1913, have felt themselves legally debarred from making donations to war funds because their Memoranda of Association do not authorise such donations and those Memoranda cannot be altered under the existing provisions of the Act so as to make such contributions permissible.

18 THE RESERVE BANK OF INDIA (THIRD AMENDMENT) ACT, 1940.

It is therefore proposed to enact legislation enabling a company registered under that Act, whether a club or not, to make any contributions it wishes to war funds notwithstanding any legal impediments of the character mentioned above. The Bill is designed to achieve this object, and to give retrospective validation to any action of this kind already taken by a Company since the outbreak of war." (Vide Statement of Objects and Reasons, published in the *Gazette of India*, Part V, dated the 9th November, 1940).

2. *Interpretation*—In this Act "Government loan" includes a loan floated by the Government of the United Kingdom.

3. *Power of companies to make donations and investments*.—Any company formed and registered under the Indian Companies Act, 1913, or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act or Acts repealed thereby may, notwithstanding anything contained in the Indian Companies Act, 1913, and notwithstanding that the memorandum of association or the articles of association of the Company do not enable it so to do, by special resolution authorise the making of a donation from the company's assets to a public fund formed, or the making of an investment of the company's assets in a Government loan floated, for the purpose of assisting the prosecution of the present war.

4. *Validation of donations and investments already made*.—Any donation to a public fund formed, and any investment in a Government loan floated, for the purpose of assisting the prosecution of the present war made by any company to which this Act applies between the 3rd day of September, 1939, and the commencement of this Act shall be as valid in all respects as if it had been made in accordance with the provisions of section 3, and after the commencement of this Act.

5. *Decision of doubts*.—If any question arises whether for the purposes of this Act a loan is a Government loan floated for the purpose of assisting the prosecution of the present war or whether a fund is a public fund formed for the purpose of assisting the prosecution of the present war, the question shall be decided by the Central Government whose decision shall be final.

The Reserve Bank of India (Third Amendment) Act, 1940.

Received the assent of the Governor General on the 27th November, 1940, and is published in the *Gazette of India*, Part IV, dated the 30th November, 1940.

Act No. XXXVIII of 1940.

An Act further to amend the Reserve Bank of India Act, 1934.

WHEREAS it is expedient further to amend the Reserve Bank of India Act, 1934, for the purpose hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title*.—This Act may be called the Reserve Bank of India (Third Amendment) Act, 1940

Notes.

Object.—"Under section 42 of the Reserve Bank of India Act, a scheduled bank is required to maintain daily with the Reserve Bank a minimum balance equal to 5 per cent. of its demand liabilities and 2 per cent. of its time liabilities, and in case of default the Reserve Bank is entitled to charge interest at penal rates on the amount of default. There is no provision, however, in the Act to prevent the bank from withdrawing its deposit, even up to the full amount, provided it is prepared to accept the liability to pay this

penal interest on the resulting deficiency. Cases of such withdrawal have been brought to notice by the Central Board of the Reserve Bank, who have recommended, in the interest of depositors and of sound banking in general, legislation to penalise directors and other officers of such banks who are knowingly and wilfully parties to such default. The Bill prescribes a suitable penalty and gives powers to the Reserve Bank to prohibit defaulting banks from accepting fresh deposits during the continuation of the default." (*Vide* Statement of Objects and Reasons, published in the *Gazette of India*, Part V, dated the 9th November, 1940).

2. Amendment of section 42, Act II of 1934.—After sub-section (3) of section 42 of the Reserve Bank of India Act, 1934, the following sub-section shall be inserted, namely :—

"(3A) When under the provisions of sub-section (3) penal interest at the increased rate of five per cent. above the bank rate has become payable by a scheduled bank, if thereafter on the day fixed for the next return the balance held at the Bank is still below the prescribed minimum as disclosed by this return,—

(a) every director and any managing agent, manager or secretary of the scheduled bank, who is knowingly and wilfully a party to the default, shall be punishable with fine which may extend to five hundred rupees and with a further fine which may extend to five hundred rupees for each subsequent day on which the default continues, and

(b) the Bank may prohibit the scheduled bank from receiving after the said day any fresh deposit,

and, if default is made by the scheduled bank in complying with the prohibition referred to in clause (b), every director and officer of the scheduled bank who is knowingly and wilfully a party to such default or who through negligence or otherwise contributes to such default shall in respect of each such default be punishable with fine which may extend to five hundred rupees and with a further fine which may extend to five hundred rupees for each day after the first on which a deposit received in contravention of such prohibition is retained by the scheduled bank.

Explanation.—In this sub-section "officer" includes a managing agent, manager, secretary, branch manager, and branch secretary.

The Motor Spirit (Duties) Amendment Act, 1940

Received the assent of the Governor General on the 27th November, 1940, and is published in the *Gazette of India*, Part IV, dated the 30th November, 1940.

Act No. XXXIX of 1940.

An Act further to amend the Motor Spirit (Duties) Act, 1917.

WHEREAS it is expedient further to amend the Motor Spirit (Duties) Act, 1917, for the purpose hereinafter appearing;

It is hereby enacted as follows:—

1. Short title.—This Act may be called the Motor Spirit (Duties) Amendment Act, 1940.

Notes.

Object.—"The production in British India of power alcohol is being developed for the purpose of mixing with petrol to provide motor spirit; and by provincial legislation such admixture can be made compulsory.

Power alcohol in its unmixed form, not being a hydrocarbon, does not fall within the definition "motor spirit" contained in section 2 of the Motor Spirit (Duties) Act, 1917; but when mixed with petrol the mixture falls within that definition, and the whole then becomes dutiable as a motor spirit.

By the Motor Spirit (Power Alcohol Mixture) (Duties) Order, 1940, the excise duty on the power alcohol content of such mixtures is accordingly leviable only at the mixing plant.

It is considered that the levy of excise duty on power alcohol could more conveniently take place at the source of production, i.e., at the distillery. To enable this to be done this Bill proposes to make power alcohol dutiable independently of petrol by bringing it in its unmixed form within the definition of "Motor spirit." (*Vide* Statement of Objects and Reasons, published in the *Gazette of India* Part V, dated the 9th November, 1940).

2. Amendment of section 2, Act II of 1917.—In section 2 of the Motor Spirit (Duties) Act, 1917, for the definition of motor spirit the following shall be substituted, namely:—

"Motor spirit" means—

(a) any inflammable hydrocarbon (including any mixture of hydrocarbons or any liquid containing hydrocarbons) which is capable of being used for providing reasonably efficient motive power for any form of motor vehicle, and

(b) power alcohol, that is ethyl alcohol of any grade (including such alcohol when denatured or otherwise treated) which, either by itself or in admixture with any such hydrocarbon, is capable of being used as aforesaid.

•The Indian Income-tax (Amendment) Act, 1940.

Received the assent of the Governor General on the 3rd December, 1940, and is published in the *Gazette of India*, Part IV, dated the 14th December, 1940.

Act No. XL of 1940.

An Act further to amend the Indian Income-tax Act, 1922, and to make certain transitory provisions with respect to the operation of that Act on the coming into force of Part II of the Indian Income-tax (Amendment) Act, 1939.

WHEREAS it is expedient further to amend the Indian Income-tax Act, 1922, for the purposes hereinafter appearing, and to make certain transitory provisions with respect to the operation of that Act on the coming into force of Part II of the Indian Income-tax (Amendment) Act, 1939;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Indian Income-tax (Amendment) Act, 1940.

Notes.

Object.—"The object of this Bill is to remedy certain hardships caused by, and certain defects in, the existing provisions of the Indian Income-tax Act, 1922. The provisions of the Bill fall into two main categories. Clauses 3, 4, 11, 12 and 14 are machinery provisions; the remaining clauses are mainly designed to give relief to the tax-payer. The clauses are more fully explained in the notes under clauses." (*Vide* Statement of Objects and Reasons, published in the *Gazette of India*, Part V, dated the 9th November, 1940.)

2. *Amendment of section 2, Act XI of 1922.*—For clause (6) of section (2) of the Indian Income-tax Act, 1922 (hereinafter referred to as the said Act), the following clause shall be substituted, namely:—

(6) "company" means a company as defined in the Indian Companies Act, 1913, or formed in pursuance of an Act of Parliament or of Royal Charter or Letters Patent, or of an Act of the Legislature of a British possession or of a law of an Indian State, and includes any foreign association, whether incorporated or not, which the Central Board of Revenue may, by general or special order, declare to be a company for the purposes of this Act ;

Notes.

The new definition of "company" follows the definition recently enacted by the Legislature in the Excess Profits Tax Act. It differs from the existing definition in the following respects :—

(a) it includes a company formed in pursuance of a law of an Indian State ;

(b) it dispenses with the condition that a foreign association in order to be declared a "company" must be carrying on business in British India.

3. *Amendment of section 5, Act XI of 1922.*—(1) In section 5 of the said Act,—

(a) in sub-section (3), the words "for any area" shall be omitted ;

(b) in sub-sections (4) and (5), for the words "and of such incomes or classes of income and" the words "or of such incomes or classes of income or" shall be substituted ;

(c) in sub-section (4), for the words "and, where two or more Appellate Assistant Commissioners have been appointed for the same area" the following words shall be substituted, namely :—

"and, where such directions have been assigned to two or more Appellate Assistant Commissioners of income-tax, the same persons or classes of persons or the same incomes or classes of income or the same area ;"

(d) in sub-section (5), for the words "and, where two or more Inspecting Assistant Commissioners of Income-tax or Income-tax Officers have been appointed for the same area" the following words shall be substituted, namely :—

"and, where such directions have been assigned to two or more Inspecting Assistant Commissioners of Income-tax or Income-tax Officers, the same persons or classes of persons or the same incomes or classes of income or the same area ;"

(e) in sub-section (6), for the words "and for such area" the words "or such area" shall be substituted, the words "within the specified area" shall be omitted, and after the words "specified classes of persons or classes of income" the words "or area" shall be inserted ;

(f) after sub-section (7) the following sub-section shall be inserted, namely :—

"(7A) The Commissioner of Income-tax may transfer any case from one Income-tax Officer subordinate to him to another, and the Central Board of Revenue may transfer any case from any one Income-tax Officer to another. Such transfer may be made at any stage of the proceedings, and shall not render necessary the re-issue of any notice already issued by the Income-tax Officer from whom the case is transferred."

(2) The amendments made by clauses (a), (b), (c), (d) and (e) of sub-section (1) shall be deemed to have taken effect on the 1st day of April, 1939.

Notes.

This section amends section 5 which deals with appointments of income-tax authorities. The amendments are designed to set forth more clearly and

to supplement the powers of the Department in fixing jurisdictions, to minimise mere procedural difficulties and to prevent overlapping of jurisdictions. Certain of the changes made have been given effect retrospectively from the date on which Part I of the Indian Income-tax (Amendment) Act, 1939, came into force.

4. *Insertion of headings after section 5, and amendment of section 5A of Act XI of 1922.*—After section 5 of the said Act the following headings shall be inserted, namely :—

“CHAPTER II-A.

APPELLATE TRIBUNAL.”

and in sub-section (8) of section 5A for the word “place” the word “places” shall be substituted.

Notes.

This section removes the provisions relating to the Appellate Tribunal from Chapter II which deals with income tax authorities, and makes a formal correction in sub-section (8) of section 5A.

5. *Amendment of section 9, Act XI of 1922.*—In sub-section (1) of section 9 of the said Act, in clause (vi), for the words “the net annual value after deducting the foregoing allowances”, in both places where they occur, the words “the annual value” shall be substituted.

Notes.

This section removes a legitimate grievance of property owners. The amendment provides that the allowance for vacancies shall be given on the gross annual value and not on the net annual value.

6. *Amendment of section 18, Act XI of 1922.*—To sub-section (3A) of section 18 of the said Act the following provisos shall be added, namely :—

“Provided that where the person so payable is a British subject as defined in section 27 of the British Nationality and Status of Aliens Act, 1914, or a subject of a State in India or Burma, and the Income-tax Officer gives a certificate in writing (which certificate he shall give in every proper case on the application of the assessee) that to the best of his belief the total world income of such person will be less than the minimum liable to income-tax or that his total income will be liable to a rate of income-tax less than the maximum rate, the person responsible for paying any income referred to in this sub-section shall, until such certificate is cancelled by the Income-tax Officer, pay the income without deduction or deduct the tax at such less rate, as the case may be :

Provided further that nothing in this sub-section shall apply to any payment made in the course of transactions in respect of which the person responsible for making the payment is deemed under the first proviso to section 43 not to be an agent of the payee.”

Notes

The first amendment provides for relief in the case of non-residents with small incomes to whom hardship is caused by deduction of tax at the maximum rate. The amendment will not only give relief to the tax payer but will relieve the Department of the work involved in dealing with numerous refund claims.

The second amendment provides that deduction of tax at source shall not apply to transactions such as “hedges and straddles” carried on between a resident broker and a non-resident broker. The amendment carries out the intention of the first proviso to section 43.

7. Amendment of section 23A, Act XI of 1922.—In subsection (1) of section 23A of the said Act,—

(a) after the words “in general meeting” the words “increased by any income-tax payable thereon” shall be omitted;

(b) after the words “the assessable income of the company of that previous year” the words “as reduced by the amount of income-tax and super-tax payable by the company in respect thereof” shall be inserted;

(c) after the words “as computed for income-tax purposes” the words “and reduced by the amount of income-tax and super-tax payable by the company in respect thereof” shall be inserted;

(d) in the first proviso, the words “of the assessable income”, in both places where they occur, shall be omitted;

(e) in the second proviso, the words “as reduced by the amount of income-tax and super-tax payable by the company in respect thereof” shall be inserted after the words “fifty-five per cent. of the assessable income of the company” and shall also be added at the end of the proviso.

Notes.

This section amends section 23A—a section designed to check avoidance of super-tax. As the section stands, it comes into operation even if 60 per cent. of the company's assessable income after income-tax and super-tax have been paid is distributed. The amendment provides that the requirement shall be a distribution of 60 per cent. of the assessable income as reduced by the amount of income-tax and super-tax payable.

8. Amendment of section 28, Act XI of 1922.—In the proviso to subsection (1) of section 28 of the said Act, after clause (c) the following clause shall be added, namely:—

“(d) when the person liable to penalty is a registered firm, or an unregistered firm treated under section 23 (5) (b) as a registered firm, so that the amount of the income-tax and super-tax payable by the firm itself has not been determined, that amount shall be taken to be an amount equal to the tax which would have been payable by an unregistered firm on an income equal to the firm's total income, and, in the cases referred to in clauses (b) and (c), the amount of the income-tax and super-tax which would have been avoided if the income as returned had been accepted as the correct income, shall be taken to be the difference between the amount of the tax which would have been payable by an unregistered firm on an income equal to the firm's total income and the amount of the tax payable by an unregistered firm on an income equal to the income of the firm as actually returned by the firm.”

Notes.

This section amends section 28 which gives power to impose penalties. As the section read with section 23(5) stands, it is not possible to penalise a registered firm since tax is not payable by the firm but by its partners. The amendment remedies this defect and merely puts a registered firm in the same position as other assessees, e.g., Hindu undivided families or unregistered firms.

9. Amendment of section 58B, Act XI of 1922.—After sub-section (3) of section 58B of the said Act the following sub-section shall be inserted, namely:—

“(3A) An order according recognition to a provident fund shall not, unless the Commissioner otherwise directs, be affected by the fact that the

fund is subsequently amalgamated with another provident fund on the occurrence of an amalgamation of the undertakings in connection with which the two funds are maintained, or that it subsequently absorbs the whole or a part of another provident fund belonging to an undertaking which is wholly or in part transferred to or merged in the undertaking of the employer maintaining the first mentioned fund."

Notes.

Sections 9 and 10 deal with recognised provident funds and are designed to make the provisions governing these funds more liberal and elastic.

10. *Amendment of section 58C, Act XI of 1922.*—(1) In sub-section (1) of section 58C of the said Act,—

(a) to clause (a) the following proviso shall be added, namely :—

"Provided that the Commissioner may, if he thinks fit and subject to such conditions, if any, as he thinks proper to attach to the recognition, accord recognition to a fund maintained by an employer whose principal place of business is not in British India notwithstanding that a proportion not exceeding ten per cent. of the employees is employed outside India."

(b) to clause (b) the following proviso shall be added, namely :—

"Provided that an employee who retains his employment while serving in His Majesty's Forces or when taken into or employed in the national service under the National Service (European British Subjects) Act, 1940, or the National Service (Technical Personnel) Ordinance, 1940, may, notwithstanding that he receives from the employer no salary or a salary less than he would have received had he not entered His Majesty's Forces, or been so taken into or employed in the national service, contribute to the fund during his service in His Majesty's Forces or while so taken into or employed in the national service a sum not exceeding the amount he would have contributed had he continued to receive from the employer the same salary (including increments, if any) as he would have received had he not entered His Majesty's Forces or been taken into or employed in the national service."

(c) in clause (d), after the words "contributions as above specified" the words "and of donations, if any, received from the trustees" shall be inserted, and for the words "contributions and accumulations" the words "contributions, donations and accumulations" shall be substituted.

(2) The amendment made by clause (b) of sub-section (1) shall be deemed to have been made and to have taken effect on the 3rd day of September, 1939.

11. *Amendment of section 61, Act XI of 1922.*—In sub-section (1) of section 61 of the said Act, after the word "before" the words "the Appellate Tribunal or" shall be inserted.

12. *Amendment of section 64, Act XI of 1922.*—In clause (b) of sub-section (5) of section 64 of the said Act, after the words "where by" the words "any direction given or" shall be inserted, and after the word and figure "section 5" the words, brackets, figures and letter "or in consequence of any transfer made by him under sub-section (7A) of section 5" shall be inserted.

13. *Amendment of the Schedule, Act XI of 1922.*—In the Schedule to the said Act, in rule 9, for the words "by a mutual insurance company" the words "by a mutual insurance association" shall be substituted.

Notes.

This section remedies a defect in the Schedule which lays down the rules for the computation of the profits of insurance business. Rule 9, as it stands,

applies the Schedule to the assessment of profits of an insurance business carried on by a mutual insurance company. As mutual insurance business is carried on by persons other than companies, this change is necessary. Without this change, the mutual insurance business of persons other than companies would have to be assessed on their investment income without any allowance for expenditure on management.

14. Transitory provisions with respect to operation of Act XI of 1922.—Notwithstanding the coming into force of Part II of the Indian Income-Tax (Amendment) Act, 1939,—

(a) all appeals already duly instituted under section 32 of the Indian Income-Tax Act, 1922, at the time when the said Part II comes into force,

(b) all proceedings then pending before the Commissioner in connection with the exercise of his powers of revision under section 33,

(c) all applications to the Commissioner, then pending, for reference to the High Court under sub-section (2) of section 66, and

(d) all applications to the High Court, then pending, for the issue of a requisition to the Commissioner under sub-section (3) of section 66, may be continued and disposed of as if the said Part II had not come into force, and the provisions of sub-sections (2), (3), (3A), (4), (5) and (5) of section 66, as subsisting before the said Part II came into force, shall continue to have effect in relation to the appeals and proceedings referred to in clauses (a) and (b):

Provided that where under the provisions of section 33 of the Indian Income-tax Act, 1922, as substituted by the Indian Income-tax (Amendment) Act, 1939, an assessee becomes entitled to appeal to the Appellate Tribunal against any order passed by an Appellate Assistant Commissioner under section 28 or section 31 in respect of which he has already lodged an appeal to the Commissioner under section 32 or made any application to the Commissioner for the exercise of his powers of revision under section 33, he may at his option elect to proceed with his appeal to the Commissioner or his application, as the case may be, in which case he shall lose his right of appeal to the Appellate Tribunal, or he may elect to appeal to the Appellate Tribunal under section 33, in which case his appeal to the Commissioner or his application, as the case may be, shall lapse.

Notes

When the Income-tax Appellate Tribunal commences to function, Part II of the Income-tax (Amendment) Act will come into force and the Commissioner's power of bearing appeals (section 32), his power of revision (section 33) and his functions in respect of applications for reference to the High Court will cease unless provision is made to continue them in respect of pending appeals and applications. It is necessary that provision should be made for the disposal of these appeals and applications and also for orders of the High Court under section 66 (3) in respect of applications disposed of by the Commissioner. The amendments in this clause are designed for this purpose.

The Indian Sale of Goods (Amendment) Act, 1940.

Received the assent of the Governor General on the 3rd December, 1940, and is published in the *Gazette of India*, Part IV, dated the 14th December, 1940.

Act-No. XLI of 1940

An Act to amend the Indian Sale of Goods Act, 1930

WHEREAS it is expedient to amend the Indian Sale of Goods Act, 1930, for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Indian Sale of Goods (Amendment) Act, 1940.

Notes.

Object.—"The attention of the Government of India has been drawn to a recent judgment of the Lahore High Court in a civil revision case in which it was held that since the wording of the Preamble of the Indian Tariff Act, 1934 (XXXII of 1934), refers only to customs duties on goods imported into or exported from British India, section 10 of that Act, which permits the addition to or deduction from a contract price of an increase or decrease in duty imposed after the making of the contract, does not apply to the excise duty on sugar produced in British India and intended to be sold within the country for home consumption. In order to put the matter beyond doubt and since the subject is germane to the law relating to the sale of goods and contracts of sale, it is proposed to repeal this section of the Indian Tariff Act and re-enact it as a section of the Indian Sale of Goods Act, 1930" (*Vide Statement of Objects and Reasons*, published in the *Gazette of India*, Part V, dated the 16th November, 1940).

2. *Insertion of new section 64A in Act III of 1930.*—After section 64 of the Indian Sale of Goods Act, 1930, the following section shall be inserted, namely:—

"64A. *In contracts of sale amount of increased or decreased duty to be added or deducted.*—In the event of any duty of customs or excise on any goods being imposed, increased, decreased or remitted after the making of any contract for the sale of such goods without stipulation as to the payment of duty where duty was not chargeable at the time of the making of the contract, or for the sale of such goods duty paid where duty was chargeable at that time,—

(a) if such imposition or increase so takes effect that the duty or increased duty, as the case may be, or any part thereof, is paid, the seller may add so much to the contract price as will be equivalent to the amount paid in respect of such duty or increase of duty, and he shall be entitled to be paid and to sue for and recover such addition, and

(b) if such decrease or remission so takes effect that the decreased duty only or no duty, as the case may be, is paid, the buyer may deduct so much from the contract price as will be equivalent to the decrease of duty or remitted duty, and he shall not be liable to pay, or be sued for or in respect of, such deduction."

3. *Repeal of section 10 of Act XXXII of 1934.*—(1) Section 10 of the Indian Tariff Act, 1934, is hereby repealed.

(2) Nothing in the repeal effected by sub-section (1) shall affect or be deemed to affect—

(a) any right, title, interest, obligation or liability already acquired, accrued or incurred before the commencement of this Act, or

(b) any legal proceedings or remedy in respect of any such right, title, interest, obligation or liability, or

(c) anything done or suffered before the commencement of this Act.

The Excess Profits Tax (Amendment) Act, 1940.

Received the assent of the Governor General on the 3rd December, 1940 and is published in the *Gazette of India*, Part IV, dated the 14th December, 1940.

Act No. XLII of 1940.

An Act to amend the Excess Profits Tax Act, 1940.

WHEREAS it is expedient to amend the Excess Profits Tax Act, 1940, for the purposes hereinafter appearing;

It is hereby enacted as follows :—

1. *Short title, commencement and effect.*—This Act may be called the Excess Profits Tax (Amendment) Act, 1940.

(2) It shall come into force at once ; but its provisions shall be deemed to have taken effect on the day on which the Excess Profits Tax Act, 1940, came into force.

Notes.

Object.—“The United Kingdom Finance (No. 2) Act, 1939, which is closely followed by the (Indian) Excess Profits Tax Act, 1940, has been amended by later Acts with a view to remedying certain hardships and anomalies which experience has shown are likely to arise. The object of the present Bill is to amend the latter Act so as to remedy similar hardships and anomalies. The provisions of the Bill are explained in the notes under clauses. (*Vide* Statement of Objects and Reasons, published in the *Gazette of India*, Part V, dated the 16th November, 1940).

2. *Amendment of section 2, Act XV of 1940.*—In clause (21) of section 2 of the Excess Profits Tax Act, 1940 (hereinafter referred to as the said Act), for sub-clause (b) the following sub-clauses shall be substituted, namely :—

“(b) in relation to a business carried on by a partnership of which one or more of the partners is a body corporate (other than a company the directors whereof have a controlling interest therein), such a rate per cent. as is equivalent to—

(i) eight per cent. per annum on so much of the average amount of the capital employed in the business during the chargeable accounting period as represents the share of any such body corporate, and

(ii) ten per cent. per annum on the remainder of that amount ;

(c) in relation to a business to which neither sub-clause (a) nor sub-clause (b) applies, ten per cent. per annum ;”.

Notes.

This section amends clause (21) of section 2 of the Act so as to secure that, in the case of a partnership one of the partners in which is a company not director controlled, only the appropriate statutory percentage is allowed in respect of the company's capital therein.

3. *Amendment of section 6, Act XV of 1940.*—In sub-section (3) of section 6 of the said Act, after the word and figure “section 13” the following words shall be inserted, namely :—

“or within the extended period allowed by the Excess Profits Tax Officer under the proviso to that sub-section”

and to the sub-section the following proviso shall be added, namely :—

“Provided further that a determination on an application under this sub-section—

(a) shall have effect with respect to all subsequent chargeable accounting periods ;

(b) shall exclude any further application under this sub-section.”

Notes.

The amendments make directions given under section 6 (3) or section 26. (1) effective for subsequent chargeable accounting periods, and also give finality to such directions.

4. *Amendment of section 8, Act XV of 1940.*—In section 8 of the said Act,—

(a) in sub-section (3), after the words “in computing the capital employed in the business after the change”, and in sub-section (4), after the words “in computing the capital employed in the resulting business” the following words shall be inserted, namely :—

"and in considering, for the purposes of computing the profits of, and the capital employed during, any chargeable accounting period, whether any and, if so, what deductions are to be made in respect of depreciation of buildings, plant and machinery,";

(b) in sub-section (5), the words "subject to any necessary modifications" shall be omitted;

(c) in sub-section (6), the words "subject, however, to such modifications (including modifications as respects the computation of capital) as he may consider just" shall be omitted;

(d) after sub-section (7) the following sub-section shall be added, namely:—

"(8) Where—

(a) a business is, by virtue of sub-section (2) or sub-section (3), deemed not to have been discontinued; or

(b) a business is, by virtue of sub-section (4), to be treated as if it had been in existence throughout the period during which there was in existence any other business; or

(c) a business is, by virtue of sub-section (5), to be treated as a continuation of another business; or

(d) any person who is carrying on a business after a transfer is treated, by virtue of sub-section (6), as having carried on the business as from a date before the transfer,

the provisions of this Act relating to the computation of profits and capital for the purposes of excess profits tax shall, both as respects the standard period and any chargeable accounting period, have effect subject to such modifications, if any, as the Excess Profits Tax Officer may think just, and the Excess Profits Tax Officer may make such alterations in the periods which would otherwise be the chargeable accounting periods of the business as he thinks proper:

Provided that if the Excess Profits Tax Officer makes any such modifications and the person carrying on the business is dissatisfied with the modifications so made, or if the person carrying on the business is dissatisfied with the refusal of the Excess Profits Tax Officer to make any such modifications, he may, at any time before the expiry of forty-five days from the date on which the order of the Excess Profits Tax Officer is communicated to him, appeal to the Board of Referees through the Excess Profits Tax Officer."

Notes.

Clause (a).—Sub-sections (3) and (4) of the Act provide that in the case of a change of ownership or of an amalgamation on or after 1st September, 1939, the successor is to have the advantage of the predecessor's standard of profits on condition that the price paid for any assets is ignored in computing the successor's capital. The amendment makes the condition apply also to the value of acquired assets for the purpose of computing depreciation allowances.

Clauses (b), (c) and (d).—The amendments, by recasting sub-sections (5) and (6) of section 8, make it possible, in the case of a change in the constitution of a partnership before the 1st September, 1939, or the transfer of part of a business on or after 1st September, 1939, or the transfer of a business or the main part of a business after 1st April, 1936, and before 1st September, 1939, for such adjustments of capital and profits to be made as will secure a fair comparison of like with like.

5. Amendment of section 9, Act XV of 1940.—After sub-section (1) of section 9 of the said Act the following sub-section shall be inserted, namely:—

"(1A) Where—

(a) any debt is owing to any company by another company; and

(b) one of those companies is a subsidiary of the other, or both are subsidiaries of a third company; and

(c) no interest is payable in respect of the debt, but the circumstances in which the debt came into existence or is allowed to continue to exist are such that the debt represents in substance capital employed in the business of the debtor company,

the capital of both companies shall be computed as if the debt did not exist."

Notes.

The amendment provides for the case of a resident company which is the subsidiary of a non-resident company and is financed by the latter. The amendment secures that allowance is given for the whole of the capital of the group that actually earns the Indian profits.

6. *Amendment of section 12, Act XV of 1940.*—In sub-section (2) of section 12 of the said Act,—

(a) for the words "to the extent that such profits arose in the said country" the words "to the extent to which such profits are liable to excess profits tax under this Act" shall be substituted;

(b) in the proviso, for the words "chargeable accounting period", where those words occur for the second time, the following shall be substituted, namely:—

"previous year (as determined for that business for, the purposes of the Indian Income-tax Act, 1922)."

Notes.

Clause (a)—The amendment corrects the hardship that exists where a United Kingdom company pays in the United Kingdom 100 per cent. of its excess profits, the whole of its profits being earned in India, and receives no allowance for such excess profits tax in computing the profits for Indian Income-tax purposes because none of the profits actually arise in the United Kingdom.

Clause (b)—This is a machinery clause only, and ensures that excess profits tax paid in the United Kingdom in respect of a deficiency of profits in a chargeable accounting period is taken into account for Indian Income-Tax purposes whether such period is a chargeable accounting period in India or not.

7. *Amendment of section 17, Act XV of 1940.*—For the second proviso to sub-section (1) of section 17 of the said Act the following shall be substituted, namely:—

"Provided further that no appeal shall lie under this section against any apportionment made by the Excess Profits Tax Officer under the proviso to sub-section (5) of section 8, against any modifications made by the Excess Profits Tax Officer under sub-section (8) of section 8, against any decision of the Excess Profits Tax Officer under rule 11 of the First Schedule, or against any decision of the Board of Referees or the Central Board of Revenue."

Notes.

The section makes amendments consequential on the insertion of new section 8 (8) and the changes made in the First Schedule to the Act.

8. *Amendment of section 26, Act XV of 1940.*—In section 26 of the said Act,—

(a) in sub-section (1) and in sub-section (3), after the word "If" the following words shall be inserted, namely:—

"on an application made to it through the Excess Profits Tax Officer";

(b) to sub-section (1) the following proviso shall be added, namely :—

Provided further that a determination on an application under this sub-section—

(a) shall have effect with respect to all subsequent chargeable accounting periods ;

(b) shall exclude any further application under this sub-section.”;

(c) after sub-section (3) the following sub-section shall be added, namely :—

“(4) An application to the Central Board of Revenue under this section shall be presented to the Excess Profits Tax Officer before the expiry of the period specified in the notice issued under sub-section (1) of section 13 or of the extended period allowed by the Excess Profits Tax Officer under the proviso to that sub-section, but in the case of an application under sub-section (1) of this section, if the person carrying on the business has made or is making an application under sub-section (3) of section 6, the application shall be presented to the Excess Profits Tax Officer before the expiry of forty-five days from the date on which the order of the Board of Referees disposing of the application under sub-section (3) of section 6 is communicated to the person who has made that application.”

Notes.

The amendment rectifies the omission to provide for the manner in which and within what time limits an application is to be made to the Central Board of Revenue.

9. *Amendment of Schedule I, Act XV of 1940.*—In Schedule I to the said Act,—

(a) in rule 1, in the first proviso, after the word “Provided” the word “further” shall be inserted, and before that proviso, as so amended, the following proviso shall be inserted, namely :—

“Provided that any sums excluded under the proviso to clause (iii) of sub-section (2) or clause (a) of sub-section (4) of that section from the allowances made in computing the profits of the business for the purposes of income-tax shall, if paid, be included in those allowances when computing the profits of the business for the purposes of excess profits tax :”;

(b) in rule 4, —

(i) in sub-rule (1) after the brackets and figure “(2)” the brackets, figure and letter “(2A)” shall be inserted ;

(ii) after sub-rule (2) the following sub-rule shall be inserted, namely :—

“(3A) In the case of a business part of which consists in banking, insurance or dealing in investments, not being a business to which sub-rule (2) of this rule applies, the profits, shall include all income received from investments held for the purposes of that part of the business, being income to which the persons carrying on the business are beneficially entitled.”;

(iii) in sub-rule (3), after the brackets and figure “(2)” the word, brackets, figure and letter “or (2A)” shall be inserted ;

(c) in rule 7,—

(i) for sub-rule (1) the following sub-rule shall be substituted, namely—

(1) In the case of a business carried on, in any accounting period which constitutes or includes a chargeable accounting period, by a company the directors whereof have throughout that accounting period a controlling interest therein—

(a) in computing the profits for that accounting period ; and

(b) if the standard profits of the business are computed by reference to the profits of a standard period, also in computing, in relation to any such chargeable accounting period, the profits for the standard period,

no deduction shall be made in respect of directors' remuneration.";

(ii) in sub-rule (2), for the words "In this rule" the words, brackets and figure "In sub-rule (1) of this rule" shall be substituted;

(iii) after sub-rule (2) the following sub-rule shall be added, namely:—

(3) If, in the case of a business carried on by a company in any accounting period which constitutes or includes a chargeable accounting period, the directors of the company—

(a) have during any part of that accounting period, or

(b) had during the whole or any part of any previous accounting period which includes the whole or any part of any chargeable accounting period or the whole or any part of the standard period (if any),

a controlling interest therein, and the case is not one to which sub-rule (1) of this rule applies, then, except in so far as the Central Board of Revenue otherwise directs, no deduction shall be made in respect of directors' remuneration either in computing the profits for the first-mentioned accounting period or in computing in relation to any chargeable accounting period wholly or partly included in that accounting period, the profits of the standard period (if any).";

(d) after rule 10, the following rule shall be added, namely:—

"11. Where in respect of any accounting period a deduction would, apart from the provisions of this rule, be allowable in computing profits, and, in the opinion of the Excess Profits Tax Officer, the deduction does not represent a sum reasonably and properly attributable to that accounting period, only such part of the deduction shall be allowable as a deduction for that period as appears to the Excess Profits Tax Officer to be reasonably and properly attributable to that period, and any balance of the deduction shall be treated as attributable to such other accounting period or periods whether or not they include, or fall wholly or partly within, the standard period, if any, or any chargeable accounting period) as the Excess Profits Tax Officer thinks proper.

Any person who is dissatisfied with a determination of the Excess Profits Tax Officer under this rule may, at any time before the expiry of forty-five days from the date on which such determination is communicated to him, appeal to the Board of Referees through the Excess Profits Tax Officer."

Notes.

Clause (a)—The amendment provides that interest or salaries paid without British India, which are included in profits for income-tax purposes only in order to secure collection of the tax, are not to be included in profits for excess profits tax purposes.

Clause (b)—The amendment secures that, in the case of banking, insurance or dealing in investments which forms part of a business not consisting wholly or mainly in such activities and not, therefore, within Rule 2 (2) of Schedule I, the investment income from such part business is to be included in profits for excess profits tax purposes.

Clause (c)—This clause corrects the anomaly by which, in the case of a director-controlled company, while the excess of directors' remuneration in a chargeable accounting period over that in the standard period is disallowed, no allowance can be made in the converse position.

It provides also for proper adjustments being made in a case where a company was director-controlled in the standard period but not in a chargeable accounting period or where the converse position obtains.

Clause (d)—The change gives power to make suitable adjustments in cases where, either in the standard period or in a chargeable accounting period, a deduction is allowable for income-tax purposes which does not represent a sum reasonably and properly attributable thereto. The amending clause allows a more equitable comparison of the profits of the two periods in question.

10. Amendment of Schedule II, Act XV of 1940.—In Schedule II to the said Act,—

(a) in sub-rule (2) of rule 1, after the words "written down value" the following words shall be inserted, namely :—

"and to such other deductions in respect of reduced values of assets as are allowable in computing profits for the purposes of income-tax";

(b) at the end of sub-rule (1) of rule 2 the following shall be inserted, namely :—

"The debts to be deducted under this sub-rule shall include any such sums in respect of accruing liabilities as are allowable as a deduction in computing profits for the purposes of excess profits tax or would have been so allowable if the period for which the amount of capital is being computed had been a chargeable accounting period; and the said sums shall be deducted notwithstanding that they have not become payable";

(c) after rule 6 the following rule shall be added, namely :—

"7. (1) If—

(a) the Central Board of Revenue is satisfied, as respects any assets of any business the standard profits of which are computed by reference to the profits of a standard period, that during that period or any part thereof those assets were inherently unproductive, and

(b) an application that this rule shall have effect is made through the Excess Profits Tax Officer to the Central Board of Revenue by the person carrying on the business,

then, in computing the average amount of the capital employed in the business in the standard period and in all chargeable accounting periods, those assets, and any other assets of the business, shall be treated as not having been assets thereof during any part of the period during which, in the opinion of the Central Board of Revenue, they were inherently unproductive :

Provided that in the case of a business the standard profits of which depend directly or indirectly upon a direction of the Board of Referees under sub-section (3) of section 6, or of the Central Board of Revenue under sub-section (1) of section 26 of this Act the provisions of this rule shall have effect to such extent only as the Central Board of Revenue thinks proper :

Provided further that an application to the Central Board of Revenue under this rule shall be presented to the Excess Profits Tax Officer before the expiry of the period specified in the notice issued under sub-section (1) of section 13 of this Act or of the extended period allowed by the Excess Profits Tax Officer under the proviso to that sub-section.

(2) Where sub-rule (1) of this rule has effect on the application of the person carrying on any business, any computation of capital of the business made before the making of the application, and any assessment affected by that computation shall be revised accordingly."

Notes

Clause (a)—The change provides that in computing capital any other allowance (in addition to depreciation) in respect of reduced values of assets, which is made in computing profits is to be deducted from the cost of assets in computing capital.

Clause (b)—The change provides similarly for the deduction, in computing capital, of any allowances made, in computing profits, in respect of accrued liabilities.

Clause (c)—The new rule provides for allowance to be made in the case of assets which were inherently unproductive in the standard period but which become productive in a chargeable accounting period.

The Insurance Deposits (Temporary Reduction) Act, 1941.

Received the assent of the Governor General on the 3rd March, 1941, and is published in the "*Gazette of India*", Part IV, dated the 8th March, 1941.

Act No. I of 1941.

An Act to provide for the reduction temporarily of the amounts payable as instalments of the sum to be deposited by an insurer under section 7 of the Insurance Act, 1938.

WHEREAS, in consequence of conditions arising out of the present war, it is expedient to provide for the reduction temporarily of the amounts payable as instalments of the sum to be deposited by an insurer under section 7 of the Insurance Act, 1938 ;

It is hereby enacted as follows :—

1. *Short title and extent.*—(1) This Act may be called the Insurance Deposits (Temporary Reduction) Act, 1941.

(2) It extends to the whole of British India.

Notes.

Object.—"As a result of falling business and lapsing of policies, due to war conditions, those young proprietary insurance companies whose business is relatively small are finding it difficult to pay the fixed amounts of the periodical instalments of the deposits required by the Insurance Act, 1938, and are therefore in need of some relief. The object of this Bill is to reduce for the duration of the war and one year afterwards the instalments of deposits due from such insurers carrying on life insurance business only, subject to the provision of certain safeguards to prevent advantage being taken of the concession to incur increased expenditure or liabilities of an unjustifiable nature". (*Vide* Statement of Objects and Reasons, published in the *Gazette of India*, Extraordinary, dated the 21st January, 1941).

2. *Definition.*—In this Act "insurer" means an insurer as defined in clause (9) of section 2 of the Insurance Act, 1938, except that it does not include a Mutual Insurance Company or a Co-operative Life Insurance Society to which Part IV of that Act applies.

3. *Reduction of instalments of deposit.*—(1) An insurer entitled to the benefits of this Act shall, subject to the provisions of section 5, be deemed in respect of any instalment of the deposit to be made by him under section 7 of the Insurance Act, 1938, which he was required to pay during the year commencing on the 1st day of January, 1940, or which he may be required to pay at any time after the end of that year and so long as this section continues to have effect, to have complied with the provisions of the said section 7 as to payment of instalments of deposits, if he has paid or pays in accordance with the provisions of that section not less than one half the total amount which would have been required by that section as the instalment, had the insurer not availed himself of the provisions of this Act.

(2) If an insurer entitled to the benefits of this Act, when paying an instalment of deposit, has, in respect of any instalment due during the year commencing on the 1st day of January, 1940, paid more than one half the total amount required by the said section 7 as the instalment, he may at his option have the amount of any such surplus payment appropriated to the payment of the next or any subsequent instalment of deposit required from him under the said section 7 read with sub-section (1) of this section.

(3) This section shall cease to have effect on the expiration of one year from such date as may be fixed, for the purposes of this Act, by the Central Government by notification in the official Gazette as the date of termination of the present hostilities.

4. *Insurers entitled to the benefits of this Act.*—An insurer shall be entitled to the benefits of this Act only if—

(a) he carries on life insurance business only, and

(b) the date on which he first assumed risk on any policy issued by him was earlier than the 3rd day of September, 1939, but not earlier than the 3rd day of September, 1929.

5. *Cesser of title to the benefits of this Act.*—(1) An insurer otherwise entitled to the benefits of this Act shall cease to be so entitled in any year if in the preceding year his total premium income, including annuity considerations, as shown in the revenue account prepared under the Insurance Act, 1938, exceeded rupees thirty thousand.

(2) An insurer otherwise entitled to the benefits of this Act shall cease to be so entitled in respect of any future instalment—

(a) if after the 1st day of January, 1941, he declares any bonus or dividend at a rate higher than the rate at which such bonuses or dividends were last declared by him before the 3rd day of September, 1939, or

(b) if the proportion of his renewal premium income spent by him in payment of commission and other expenses including capital expenditure, determined in accordance with Rule 25 of the Insurance Rules, 1939, exceeds in any year the proportion as so determined for the accounting period ending on the 31st day of December, 1939.

6. *Resumption of payment of instalments in accordance with Act IV of 1938*—(1) When section 3 ceases to have effect, or if before that date an insurer ceases under clause (a) or clause (b) of sub-section (2) of section 5 to be entitled to the benefits of this Act, instalments of deposits shall be paid in accordance with the provisions of section 7 of the Insurance Act, 1938 (except that no insurer shall be required to pay as an instalment an amount exceeding the amount which would have been payable by him had he not availed himself of the provisions of this Act), until the last instalment required to be paid under the said section 7 has been paid, and the balance of the deposit then remaining unpaid in consequence of the reduced instalments authorised under this Act shall be paid by the insurer in such further instalments, of such amount and at such times, as the Central Government may direct.

(2) If while section 3 continues to have effect an insurer ceases in any year under sub-section (1) of section 5 to be entitled to the benefits of this Act, instalments of deposit in that year shall be paid by him in accordance with the provisions of section 7 of the Insurance Act, 1938, except that he shall not be required to pay as an instalment an amount exceeding the amount which would have been payable by him had he not availed himself of the provisions of this Act, and the provisions of sub-section (1) of this section shall apply to the payment by such insurer of any balance of the deposit due from him which remains unpaid after the last instalment required to be paid under the said section 7 has been paid.

7. *Saving in respect of delayed payments of instalments of deposits.*—For the purposes of the Insurance Act, 1938, an insurer entitled to the benefits of this Act who has failed to pay before the 1st day of January, 1941, an instalment of deposit due in the year 1940 shall not be liable to any consequences on that account in respect of a failure to comply with the provisions of section 7 of the said Act as to deposits if before the 15th day of February, 1941, he has paid as such instalment not less than one half the total amount required by the said section 7.

8. *Removal of difficulties.*—If any difficulty arises in determining the amount payable as an instalment of deposit by an insurer under this Act, the matter shall be decided by the Central Government whose decision shall be final.

The Indian Merchandise Marks (Amendment) Act, 1941.

Received the assent of the Governor General on the 11th March, 1941, and is published in the "*Gazette of India*", Part IV, dated the 15th March 1941.

Act No. II of 1941.

An act further to amend the law relating to fraudulent marks on merchandise.

WHEREAS it is expedient further to amend the law relating to fraudulent marks on merchandise ;

It is hereby enacted as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Indian Merchandise Marks (Amendment) Act, 1941.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

Notes.

Object.—"The Indian Merchandise Marks Act, which was enacted in 1889, is directed to the suppression of false marking on goods and does not require a positive statement of their actual origin, except in the case of goods which bears false or misleading indication. Marking of the country of origin is thus not generally compulsory under the Act. Since the passing of this Act, there has been no substantial modification of it, while there has been a large increase of imports and a very substantial development of industries in India. Public opinion has, therefore, been pressing for amendment of the law, chiefly, in two directions.

In the first place, it was suggested that a provision to make the marking of the country of origin on foreign goods imported into British India, whether from the United Kingdom or elsewhere, compulsory had become necessary. A direct statutory provision requiring such marking on all imported goods will, it is apprehended, create almost insuperable administrative difficulties and cause considerable inconvenience to the public. The Bill, therefore, seeks to provide for the marking of the country of origin in all necessary cases by vesting power with the Central Government to require, by notification, any class of goods to be marked with the country of origin. In the second place, the law relating to marking was found to require tightening and it has, therefore, been proposed that the name of the manufacturer or wholesale merchant should be stamped on cotton piece-goods. A similar provision is also proposed in regard to imported cotton yarn as well as cotton yarn made in Indian factories. The occasion has also been utilised to bring the definition of "trade mark" in this Act and in the Indian Penal Code into line with the corresponding definition in the Trade Marks Act which was recently passed into law by this Legislature. [Vide Statement of Objects and Reasons, printed at pages 215-216 of Part V of the *Gazette of India*, 1940.]

2. *Amendment of section 2, Act IV of 1889.*—In section 2 of the Indian Merchandise Marks Act, 1889 (hereinafter, in sections 3 to 9 inclusive, referred to as the said Act),—

(a) for clause (1) the following clauses shall be substituted, namely :—

(1) "mark" has the meaning assigned to that expression in clause (f) of sub-section (1) of section 2 of the Trade Marks Act, 1940.

(1A) "trade mark" means a "registered trade mark" as defined in clause (f) of sub-section (1) of section 2 of the Trade Marks Act, 1940 or a mark used in relation to goods for the purpose of indicating or so as to

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indicate a connection in the course of trade between the goods and some person having the right as proprietor to use the mark :

(b) in sub-clause (e) of clause (2), for the words "numeral, word or mark" the word "mark" shall be substituted.

Notes.

The expression "mark" has not been defined in the Act and the clause provides for such definition.

The definition of "trade mark" in the Act which is based on the United Kingdom Merchandise Marks Act has given rise to certain anomalies by placing foreign trade marks in a more favourable position than Indian marks, as they get protection under the Indian Penal Code, if registered though not in use, while Indian trade marks in use only are so protected. The clause provides for definition of "trade mark" which is based on the definition of this expression in the Trade Marks Act, 1940. The new definition confines itself to trade marks which are used in British India and trade marks which might be registered under the Indian Trade Marks Act. It was considered that the definition of the expression "trade mark" should properly correspond with that in the relevant Indian legislation on trade marks, namely, the Trade Marks Act, 1940, rather than with the definition in the United Kingdom Act.

3. Amendment of section 4, Act IV of 1889.—In section 4 of the said Act,—

(a) in sub-section (1), for the words "numerals, words or marks", in both places where they occur, the word "marks" shall be substituted ;

(b) in sub-section (2), after clause (b) the following word and clause shall be added, namely :—

"and

(c) being the name or initials of a fictitious person or of a person not carrying on business in connection with goods of the same description."

Notes.

Sub-clause (a) provides for amendments which are consequential to the definition of "mark" enacted under clause 2.

Sub-clause (b) provides for a new element helping to constitute a "false name or initials", namely, the name or initials of a fictitious person or of a person not carrying on business in connection with goods. The addition of this element will penalize the use of imaginary names, not being a trade mark, so that buyers may not be led to believe that the goods are manufactured by a firm when no such firm exists.

4. Amendment of section 7, Act IV of 1889.—In section 7 of the said Act,—

(a) after the words "things to which a false trade description is applied" the following words shall be inserted, namely :—

"or which, being required by notification under section 12A to have applied to them an indication of the country or place in which they were made or produced, are without the indication required by such notification";

(b) in clause (a), after the words "trade description" the following words shall be inserted, namely :—

"or that any offence against this section had been committed in respect of the goods".

Notes.

This clause amends section 7 of the Act so as to provide a penalty for failure to comply with the requirements which are imposed under the new section 12A of the Act.

5. *Insertion of new section 7A in Act IV of 1889.*—After section 7 of the said Act the following section shall be inserted, namely :—

"7A. *Penalty for tampering with, altering or effacing a mark applied in pursuance of section 12A.*—If a person tampers with, alters or effaces a mark which has been applied to any goods to which it is required to be applied by notification made under section 12A, he shall, unless he proves that he acted without intent to defraud, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees, and, in the case of a second or subsequent conviction, with imprisonment which may extend to two years, or with fine, or with both."

Notes.

This clause provides a penalty for tampering with, altering or effacing a mark applied in pursuance of the requirements which are imposed under the new section 12A of the Act, namely, to mark goods with their place of origin.

6. *Amendment of section 9, Act IV of 1889.*—In sub-section (1) of section 9 of the said Act, after the words "any goods or things to which a false trade description is applied" the following words shall be inserted, namely :—

"or which, being required by notification under section 12A to have applied to them an indication of the country or place in which they were made or produced, are without the indication required by such notification."

Notes.

This clause makes in section 9 of the Act the necessary addition to enable goods, in respect of which the new offence created by section 12A, read with section 7 as now amended, has been committed, to be forfeited.

7. *Substitution of new section and heading for section 12 and heading in Act IV of 1889.*—For section 12 of the said Act and the heading preceding that section the following section and heading shall be substituted, namely :—

"*Stamping of Piece-goods, Cotton Yarn and Thread.*"

12. *Stamping of piece-goods, cotton yarn and thread.*—(1) Piece-goods, such as are ordinarily sold by length or by the piece, which have been manufactured, bleached, dyed, printed or finished in premises which are a factory, as defined in the Factories Act, 1934, shall not be removed for sale from the last of such premises in which they underwent any of the said processes without having conspicuously stamped in English numerals on each piece the length thereof in standard yards, or in standard yards and a fraction of such a yard, according to the real length of the piece, and, except when the goods are sold from the factory for export from British India, without being conspicuously marked on each piece with the name of the manufacturer, or of the occupier of the premises in which the piece was finally processed or of the wholesale purchaser in India of the piece.

(2) Cotton yarn such as is ordinarily sold in bundles, and cotton sewing or darning thread, which have been manufactured, bleached, dyed or finished in premises which are a factory, as defined in the Factories Act, 1934, shall not be removed for sale from those premises unless, in accordance with any rules made under section 20 of this Act, in the case of yarn the bundles are conspicuously marked with an indication of the weight of yarn in each bundle and the count of the yarn contained in the bundle and in the case of thread each unit is conspicuously marked with the weight of

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thread in the unit and the grist number and, except where the goods are sold from the factory for export from British India, unless each bundle or unit is conspicuously marked with the name of the manufacturer or of the wholesale purchaser in India of the goods.

(3) If any person removes or attempts to remove or causes or attempts to cause to be removed for sale from such premises or sells or exposes or has in possession for sale any such piece-goods or any such cotton yarn or any cotton sewing or darning thread which is not marked as required by sub-section (1) and sub-section (2), every such piece and every such bundle of yarn and all such thread, and everything used for the packing thereof, shall be forfeited to His Majesty and such person shall be punished with fine which may extend to one thousand rupees."

Notes.

Section 12 of the Act prohibits the removal of piece-goods manufactured in British India from the premises of the factory without having stamped on each piece the length thereof. Sub-section (1) of the new section 12 provides that in addition to the stamping of the length on each piece the name of the manufacturer or of the wholesale purchaser should also be marked on it. Sub-section (2) thereof extends the above marking requirements to cotton yarn manufactured in British India by providing for the compulsory marking on each bundle of yarn of the name of the manufacturer or of the wholesale purchaser, the weight of the bundle and the count of yarn contained in the bundle. Sub-section (3) thereof provides a penalty for non-compliance with the requirements about marking imposed under sub-sections (1) and (2) of the new section 12 of the Act.

8. *Insertion of new heading and section 12A in Act IV of 1889.*—After section 12 of the said Act the following heading and section shall be inserted, namely:—

"Power to require goods to show indication of origin."

12A. *Power to require goods to show indication of origin.*—(1) The Central Government may, by notification in the official Gazette, require that goods of any class specified in the notification which are made or produced beyond the limits of British India and imported into British India, or which are made or produced within the limits of British India, shall, from such date as may be appointed by the notification not being less than three months from its issue, have applied to them an indication of the country or place in which they were made or produced.

(2) The notification may specify the manner in which such indication shall be applied, that is to say whether to the goods themselves or in any other manner, and the times or occasions on which the presence of the indication shall be necessary, that is to say whether on importation only, or also at the time of sale, whether by wholesale or retail or both.

(3) No notification under this section shall be issued, unless application is made for its issue by persons or associations substantially representing the interests of dealers in or manufacturers, producers, or users of the goods concerned, or unless the Central Government is otherwise convinced that it is necessary in the public interest to issue the notification, nor without such inquiry as the Central Government may consider necessary.

(4) The provisions of section 23 of the General Clauses Act, 1897, shall apply to the issue of a notification under this section as they apply to the making of a rule or bye-law the making of which is subject to the condition of previous publication.

(5) A notification under this section shall not apply to goods made or produced beyond the limits of British India and imported into British India if in respect of those goods the Chief Customs Officer is satisfied at the time of importation that they are intended for exportation whether after transshipment in or transit through British India or otherwise."

Notes.

This clause provides for the chief object of this amending Act, namely, power to require that goods shall be marked with the country of origin. It enacts that certain goods (except 'transit' goods), whether Indian or foreign, and which may be specified by notification by the Central Government, should have applied to them marks of origin, and that such notification shall be issued after enquiry by the Central Government either on its initiative or on consideration of an application from the interests concerned. Most of the commercial bodies in India are in favour of compulsory marking of origin on all foreign goods imported into British India, but the method enacted is designed both to make the marking requirement capable of being enforced efficiently through the administrative machinery available and to extend it at the same time to all cases where such marking is proved to be necessary and in the interests of the public.

9. *Amendment of section 20, Act IV of 1889.*—In section 20 of the said Act, after sub-section (1) the following sub-section shall be inserted, namely :—

"(1A) The Central Government may make rules providing for the manner in which for the purposes of section 12 cotton yarn and cotton sewing or darning thread shall be marked with the particulars required by that section."

Notes.

This clause provides for the making of rules by the Central Government for the purposes of administering the provisions of section 7.

10. *Amendment of section 18, Act VIII of 1878.*—In section 18 of the Sea Customs Act, 1878,—

(a) in clause (e),—

(i) for the words "the United Kingdom, British India and British Burma" in both places where they occur, and for the words "the United Kingdom or in British India or in British Burma" the words "British India" shall be substituted ;

(ii) in sub-clause (ii), for the words "in the same language and character as the name or trade mark" the words "in the English language" shall be substituted :

(b) in clause (f),—

(i) sub-clauses (ii) and (iii) shall be re-numbered as sub-clauses (iii) and (iv), respectively, and the following shall be inserted as sub-clause (ii), namely ;—

"(ii) have not been conspicuously marked on each piece with the name of the manufacturer, exporter or wholesale purchaser in India of the piece, and", and

(ii) in sub-clause (iv) as so re-numbered, for the words and figures "Indian Factories Act, 1881" the words and figures "Factories Act, 1934" shall be substituted ;

(c) after clause (g) the following clauses shall be added, namely :—

"(h) goods which are required by a notification under section 12A of the Indian Merchandise Marks Act, 1889, to have applied to them an indi-

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cation of the country or place in which they were made or produced, unless such goods show such indication applied in the manner specified in the notification :

- (i) cotton yarn such as is ordinarily imported in bundles, if—
 - (i) the bundle containing such yarn has not been conspicuously marked with the name of the manufacturer, exporter or wholesale purchaser in India of the goods, or
 - (ii) such bundle has not been conspicuously marked with an indication of the weight and the count of the yarn contained in it, in accordance with the rules made under section 20 of the Indian Merchandise Marks Act, 1889, and
 - (iii) the yarn has been manufactured beyond the limits of India, or
 - (iv) having been manufactured within those limits, has been manufactured beyond the limits of British India in premises which, if they were in British India, would be a factory as defined in the Factories Act, 1934 ;
- (j) cotton sewing or darning thread, if—
 - (i) the units in which the thread is supplied have not been conspicuously marked with the name of the manufacturer, exporter or wholesale purchaser in India of the goods, or
 - (ii) if each unit has not been conspicuously marked with an indication of the weight of thread contained in it and the grist number in accordance with the rules made under section 20 of the Indian Merchandise Marks Act, 1889, and
 - (iii) the thread has been manufactured beyond the limits of India, or
 - (iv) having been manufactured within those limits, has been manufactured beyond the limits of British India in premises which, if they were in British India, would be a factory as defined in the Factories Act, 1934."

Notes.

Section 10 (a) (i).—Under the existing law United Kingdom merchants are not obliged as are other foreign merchants to mark on their goods the country of origin. This exemption to United Kingdom merchants is now removed. Again non-United Kingdom goods, if they had applied on them the name or trade mark of an United Kingdom merchant, were obliged to show the country of origin. This is now limited to the application on foreign goods, including United Kingdom goods, of a name or trade mark of a British Indian merchant.

Section 10 (a) (ii).—The indication of the country of origin is now required to be in the English language in order to facilitate its easy identification.

Sub-clauses (b) and (c) provide for the necessary amendments in section 18 of the Sea Customs Act, consequent upon the amendments made by sections 7 and 8 and relate to prohibition and restriction of importation and exportation of cotton piece-goods and yarn which are not marked as required under the amended section 12 and of goods notified under the new section 12A which are without an indication of the country of origin.

11. Amendment of section 19A, Act VIII of 1878.—In sub-section (3) of section 19A of the Sea Customs Act, 1878,—

(a) for the words "British India", in both places where they occur, the word "India" shall be substituted ;

(b) for the words "and in the same language and character," the words "in the English language" shall be substituted.

Notes.

Section 11 (a).—To prevent any possible misapprehension on the part of the consumer, sub-section (3) of section 19A of the Sea Customs Act, 1878, at it stands provides for a clear indication of the country of origin in cases where goods (other than those from the United Kingdom or British India) bore a name of a place similar to one in the United Kingdom or British India. This provision is now proposed to be extended where such names are those of places in Indian States also.

12. Substitution of new section for section 478, Act XLV of 1860.—For section 478 of the Indian Penal Code the following section shall be substituted, namely:—

478. Trade mark.—For the purposes of this Code, the expression "trade mark" includes a trade mark registered under the Trade Marks Act, 1940, and any mark used in relation to goods for the purpose of indicating or so as to indicate a connection in the course of trade between the goods and some person having the right to use the mark.

Notes.

The clause provides for the purposes of the Indian Penal Code a new definition of "trade mark" which is based on the definition in the Trade Marks Act, 1940 (*vide* also notes under section 2). A trade mark as now defined includes a trade mark registered under the Trade Marks Act, 1940, and any mark which has become a trade mark by usage.

13. Amendment of section 480 Act XLV of 1860.—In section 480 of the Indian Penal Code, for the words "are the manufacture or merchandise of a person whose manufacture or merchandise they are not" the following words shall be substituted, namely:—

"have a connection in the course of trade with a person with whom they have not any such connection."

Notes.

The clause provides for an amendment consequent upon the amendment by clause 12 of section 478 of the Indian Penal Code.

The Petroleum (Amendment) Act, 1941.

Received the assent of the Governor General on the 17th March, 1941, and is published in the "*Gazette of India*", Part IV, dated the 22nd March 1941.

Act No. III of 1941.

An Act further to amend the Petroleum Act, 1934.

WHEREAS it is expedient further to amend the Petroleum Act, 1934, for the purpose hereinafter appearing;

It is hereby enacted as follows:—

1. Short title.—This Act may be called the Petroleum (Amendment) Act, 1941.

Notes.

Object.—"Under clause (c) of sub-section (1) of section 23 of the Petroleum Act, 1934, only the holder of a licence under the Act is liable for punishment for a breach of a condition of the licence held by him. The agent of a licensee is not liable for any punishment under the Act if he commits a breach of the conditions of the licence. In actual practice, the licences under the Act are taken out by the large oil companies and they

appoint agents and place them in charge of licensed premises. Cases have occurred in which breaches of conditions of licences have been committed by these agents, but prosecutions launched against such agents have been dismissed by Courts on the ground that the agents are not holders of licences under the Act. It is not always possible to proceed against the licensee in such cases, as breaches of conditions occur for which the licensee cannot reasonably be held responsible. The Act is designed to make agents liable for punishment for breaches of conditions of licences which they commit or are privy to, without freeing licensees from liability for breaches to which they are parties". [Vide Statement of Objects and Reasons, printed at page 56 of Part V of the *Gazette of India*, 1941].

2. *Amendment of section 23, Act XXX of 1934.*—For clause (a) of sub-section (1) of section 23 of the Petroleum Act, 1934, the following clause shall be substituted, namely :—

"(a) being the holder of a licence issued under section 4 or a person for the time being placed by the holder of such licence in control or in charge of any place where petroleum is being imported or stored, or is under transport, contravenes any condition of such licence or suffers any condition of such licence to be contravened, or".

The Berar Laws Act, 1941.

Received the assent of the Governor General on the 17th March, 1941, and is published in the "*Gazette of India*", Part IV, dated the 22nd March 1941.

Act No. IV of 1941.

An Act to extend certain Acts to Berar.

WHEREAS by orders made under the Indian (Foreign Jurisdiction) Order in Council, 1902, the provisions of certain Acts in force in British India have from time to time been applied to, and are now, by virtue of such application, in force in, Berar :

AND WHEREAS it is expedient that those and certain other Acts should be extended to, and be, by virtue of such extension, in force in, Berar :

It is hereby enacted as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Berar Laws Act, 1941.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

Notes.

Object.—Though the provisions of many Central Acts are applicable to Berar, this result does not flow from the British Indian Act itself being *proprio vigore* operative in Berar but is achieved by the application to Berar by order made under the Indian (Foreign Jurisdiction) Order in Council, 1902, of each such Act, often with certain modifications of the form in which the Act is in force in British India. Certain administrative inconveniences result from this. The Act as in force in British India is distinct from the Act as in force in Berar, the former being an enactment applying *proprio vigore* to British India but not to Berar, the latter consisting of the provisions of the British Indian Act made applicable to Berar by order under the Foreign Jurisdiction Order but not applicable to British India. Notifications and Statutory Rules issued under identical provisions, operative both in British India and in Berar, have accordingly to be issued separately for British India and for Berar, and a similar dual process must attend any subsequent amendment of such notifications or rules. The

repeal in British India of an Act made applicable to Berar does not automatically make the Act inoperative in Berar.

2. Since the commencement of Part III of the Government of India Act, 1935, on the 1st April, 1937, Berar and the Central Provinces have been deemed to be one Governor's Province, and an Act passed after that date and expressed to extend to the whole of British India does extend *proprio vigore* to Berar.

3. The primary object of the present Bill is to assimilate the position of Central Acts passed before the 1st day of April, 1937, to that of those passed after that date and automatically in force in Berar, that is to say, by means of one comprehensive enactment to extend to and make operative *proprio vigore* in Berar Central Acts passed before the commencement of Part III of the Government of India Act, 1935, while simultaneously nullifying the orders under the Foreign Jurisdiction Order in Council by virtue of which those Acts are operative in Berar. It is possible, now that the legislative competence of the Central Legislature is confined to matters enumerated in List I and List III of the Seventh Schedule to the Government of India Act, 1935, to achieve the result aimed at only in part by legislation in the Central Legislature. So far as the Central Legislature is incompetent to achieve the result completely, because the subject-matter of the Act to be extended is included in list II, it is anticipated that this Central legislation will be supplemented by Provincial legislation, and that the Central Act and the Provincial Act will come into operation simultaneously, each thus completing what the other left incomplete. Accordingly the Acts to be extended to Berar are grouped in two separate Schedules, Schedules I and II, according as their subject matter is relatable solely to List I and List III or only partly to those Lists and partly to List II.

4. In addition to Central Acts the provisions of which are already applicable to Berar by virtue of orders under the Foreign Jurisdiction Order in Council, Schedules I and II also contain a few Acts which it seems advisable to take the opportunity afforded by this Bill to extend to Berar.

5. One Act, the Indian Cotton Cess Act, 1923, which was made operative *proprio vigore* in Berar by the Government of India (Adaptation of Indian Laws) Order, 1937, is also still operative by virtue of an order under the Foreign Jurisdiction Order in Council. This Act has received special treatment in clause 3 of the present Bill.

6. Two Acts, the Code of Civil Procedure, 1908, and the Indian Limitation Act, 1908, require small modifications when operative in Berar owing to the fact that a special law, the Berar Small Cause Courts Law, 1935, takes the place of the Provincial Small Cause Courts Act, 1887, in Berar. These modifications have been effected in the Third Schedule to the Bill. The Fourth Schedule contains a list of Acts in regard to which doubts might arise whether they are or are not still operative in Berar. They were at one time applied to Berar, and on the repeal or expiry of the Act in British India no overt action was taken to cancel the notifications by which their provisions were applied to Berar." [Vide Statement of Objects and Reasons, printed at pages 247-248 of Part V of the Gazette of India, 1940.]

2. *Extension of certain Acts to Berar.*—(1) The Acts specified in the First Schedule and so much of any Act specified in the Second Schedule as relates to matters with respect to which the Central Legislature has

power to make laws are hereby extended to, and shall be in force in, Berar; and in any enactment so extended any reference by whatever form of words to subjects of His Majesty shall be deemed to include a reference to Berar subjects of His Exalted Highness the Nizam of Hyderabad, and notwithstanding anything contained in clause (7) of section 3 of the General Clauses Act, 1897, any reference to British India shall be construed as a reference to British India and Berar.

(2) The Acts specified in the Third Schedule shall be amended in the manner set forth in the second column of that Schedule.

3. *Cesser of application of certain Acts to Berar.*—The application, if any, to Berar, made by order under the Indian (Foreign Jurisdiction) Order in Council, 1902, of the Acts specified in the First Schedule, of so much of any Act specified in the Second Schedule as relates to matters with respect to which the Central Legislature has power to make laws, and of the Indian Cotton Cess Act, 1923, shall cease to have effect:

Provided that all appointments, delegations, notifications, orders, bye-laws, rules and regulations, which have been made or issued under, or in pursuance of, any provision of any of the said Acts as applied to Berar by order under the said Order in Council, and which are in force at the commencement of this Act, shall be deemed to have been made or issued under or in pursuance of the corresponding provision of that Act as now extended to, and in force in, Berar.

4. *Removal of doubt.*—For the removal of doubt it is hereby declared that the Acts specified in the Fourth Schedule have ceased to have effect and are repealed in Berar.

THE FIRST SCHEDULE.

[See sections 2 (1) and 3.]

Acts Extended to Berar.

Year.	Number.	Short Title.
1850	XIX	The Apprentices Act, 1850.
1850	XXI	The Caste Disabilities Removal Act, 1850.
1855	XIII	The Indian Fatal Accidents Act, 1855.
1856	XI	The European Deserters Act, 1856.
1856	XV	The Hindu Widows' Re-marriage Act, 1856.
1860	XLV	The Indian Penal Code.
1864	II	The Foreigners Act, 1864.
1865	III	The Carriers Act, 1865.
1866	XXI	The Native Converts' Marriage Dissolution Act, 1866.
1867	XXV	The Press and Registration of Books Act, 1867.
1869	IV	The Indian Divorce Act.
1872	I	The Indian Evidence Act, 1872.
1872	III	The Special Marriage Act, 1872.
1872	IX	The Indian Contract Act, 1872.
1872	XV	The Indian Christian Marriage Act, 1872.
1873	V	The Government Savings Banks Act, 1873.
1873	X	The Indian Oaths Act, 1873.
1874	IX	The European Vagrancy Act, 1874.
1875	JX	The Indian Majority Act, 1875.
1875	XVIII	The Indian Law Reports Act, 1875.
1876	IX	The Native Coinage Act, 1876.

THE FIRST SCHEDULE—*contd.*

Year.	Number.	Short title.
1877	I	The Specific Relief Act, 1877.
1878	VIII	The Sea Customs Act, 1878.
1878	XI	The Indian Arms Act, 1878.
1879	XVIII	The Legal Practitioners Act, 1879.
1881	XXVI	The Negotiable Instruments Act, 1881.
1882	II	The Indian Trusts Act, 1882.
1882	XII	The Indian Salt Act, 1882.
1884	IV	The Indian Explosives Act, 1884.
1888	III	The Police Act, 1888.
1889	IV	The Indian Merchandise Marks Act, 1889.
1890	VIII	The Guardians and Wards Act, 1890.
1890	XI	The Prevention of Cruelty to Animals Act, 1890.
1891	XVIII	The Bankers' Books Evidence Act, 1891.
1898	V	The Code of Criminal Procedure, 1898.
1901	II	The Indian Tolls (Army) Act, 1901.
1903	VII	The Indian Works of Defence Act, 1903.
1903	XV	The Indian Extradition Act, 1903.
1904	VII	The Ancient Monuments Preservation Act, 1904.
1905	IV	The Indian Railway Board Act, 1905.
1906	III	The Indian Coinage Act, 1906.
1908	V	The Code of Civil Procedure, 1908.
1908	VI	The Explosive Substances Act, 1908.
1908	IX	The Indian Limitation Act, 1908.
1908	XIV	The Indian Criminal Law Amendment Act, 1908.
1908	XVI	The Indian Registration Act, 1908.
1909	IV	The Whipping Act, 1909.
1910	IX	The Indian Electricity Act, 1910.
1911	II	The Indian Patents and Designs Act, 1911.
1911	VIII	The Indian Army Act, 1911.
1912	IV	The Indian Lunacy Act, 1912.
1913	II	The Official Trustees Act, 1913.
1913	III	The Administrator General's Act, 1913.
1914	III	The Indian Copyright Act, 1914.
1916	VII	The Indian Medical Degrees Act, 1916.
1917	II	The Motor Spirit (Duties) Act, 1917.
1917	XVIII	The Post Office Cash Certificates Act, 1917.
1918	XXII	The Bronze Coin (Legal Tender) Act, 1918.
1919	XII	The Poisons Act, 1919.
1920	V	The Provincial Insolvency Act, 1920.
1920	XIV	The Charitable and Religious Trusts Act, 1920.
1920	XV	The Indian Red Cross Society Act, 1920.
1920	XLVII	The Imperial Bank of India Act, 1920.
1920	XLVIII	The Indian Territorial Force Act, 1920.
1920	XLIX	The Auxiliary Force Act, 1920.
1921	XVIII	The Maintenance Orders Enforcement Act, 1921.
1922	XI	The Indian Income-tax Act, 1922.
1922	XII	The Indian Finance Act, 1922.

THE FIRST SCHEDULE.—*conold.*

Year.	Number.	Short title.
1922	...	The Indian States (Protection against Disaffection) Act, 1922.
1923	IV	The Indian Mines Act, 1923.
1923	V.	The Indian Boilers Act, 1923.
1923	VIII	The Workmen's Compensation Act, 1923.
1923	XXIII	The Legal Practitioners (Women) Act, 1923.
1924	VI	The Criminal Tribes Act, 1924.
1925	XXXIX	The Indian Succession Act, 1925.
1926	XI	The Promissory Notes (Stamp) Act, 1926.
1926	XVI	The Indian Trade Unions Act, 1926.
1926	XXI	The Legal Practitioners (Fees) Act, 1926.
1926	XXXVIII	The Indian Bar Councils Act, 1926.
1929	VII	The Trade Disputes Act, 1929.
1929	XIX	The Child Marriage Restraint Act, 1929.
1930	II	The Dangerous Drugs Act, 1930.
1930	III	The Indian Sale of Goods Act, 1930.
1930	XVIII	The Silver (Excise Duty) Act, 1930.
1930	XIX	The Indian Companies (Amendment) Act, 1930.
1930	XXIV	The Indian Lac Cess Act, 1930.
1931	...	The Indian Finance Act, 1931.
1931	...	The Indian Finance (Supplementary and Extending) Act, 1931.
1931	XVI	The Provisional Collection of Taxes Act, 1931.
1931	XXIII	The Indian Press (Emergency Powers) Act, 1931.
1932	IX	The Indian Partnership Act, 1932.
1932	XI	The Public Suits Validation Act, 1932.
1932	XII	The Foreign Relations Act, 1932.
1932	XIII	The Sugar Industry (Protection) Act, 1932.
1932	XXIII	The Criminal Law Amendment Act, 1932.
1933	II	The Children (Pledging of Labour) Act, 1933.
1933	VII	The Indian Finance Act, 1933.
1933	XVII	The Indian Wireless Telegraphy Act, 1933.
1933	XXV.1.	The Indian Medical Council Act, 1933.
1934	II	The Reserve Bank of India Act, 1934.
1934	VIII	The Khaddar (Name Protection) Act, 1934.
1934	IX	The Indian Finance Act, 1934.
1934	XI	The Indian States (Protection) Act, 1934.
1934	XIV	The Sugar (Excise Duty) Act, 1934.
1934	XVI	The Matches (Excise Duty) Act, 1934.
1934	XX	The Indian Carriage by Air Act, 1934.
1934	XXII	The Indian Aircraft Act, 1934.
1934	XXIII	The Mechanical Lighters (Excise Duty) Act, 1934.
1934	XXV	The Factories Act, 1934.
1934	XXXI	The Iron and Steel Duties Act, 1934.
1934	XXXII	The Indian Tariff Act, 1934.
1935	...	The Indian Finance Act, 1935.

THE FIRST SCHEDULE.—*consolid.*

Year.	Number.	Short title.
1936	...	The Indian Finance Act, 1936.
1936	III	The Parsi Marriage and Divorce Act, 1936.
1936	IV	The Payment of Wages Act, 1936.
1936	XIV	The Geneva Convention Implementing Act, 1936.
1937	I	The Agricultural Produce (Grading and Marking) Act, 1937.
1937	VI	The Arbitration (Protocol and Convention) Act, 1937.
1937	...	The Indian Finance Act, 1937.

THE SECOND SCHEDULE.

[See sections 2 (1) and 3.]

Acts partially extended to Berar.

Year.	Number.	Short title.
1843	V	The Indian Slavery Act, 1843.
1850	XII	The Public Accountant's Default Act, 1850.
1850	XXXVII	The Public Servants (Inquiries) Act, 1850.
1855	XXIV	The Penal Servitude Act, 1855.
1870	VII	The Court-fees Act, 1870.
1871	XXIII	The Pensions Act, 1871.
1881	XI	The Municipal Taxation Act, 1881.
1882	IV	The Transfer of Property Act, 1882.
1885	XIII	The Indian Telegraph Act, 1885.
1886	VI	The Births, Deaths and Marriages Registration Act, 1886.
1886	XI	The Indian Tramways Act, 1886.
1890	I	The Revenue Recovery Act, 1890.
1890	VI	The Charitable Endowments Act, 1890.
1890	IX	The Indian Railways Act, 1890.
1895	XV	The Crown Grants Act, 1895.
1897	III	The Epidemic Diseases Act, 1897.
1897	X	The General Clauses Act, 1897.
1897	XIV	The Indian Short Titles Act, 1897.
1898	VI	The Indian Post Office Act, 1898.
1899	II	The Indian Stamp Act, 1899.
1899	IV	The Government Buildings Act, 1899.
1913	VII	The Indian Companies Act, 1913.
1914	IX	The Local Authorities Loans Act, 1914.
1916	XV	The Hindu Disposition of Property Act, 1916.
1917	V	The Destruction of Records Act, 1917.
1918	II	The Cinematograph Act, 1918.
1920	X	The Indian Securities Act, 1920.
1920	XXXIX	The Indian Elections Offences and Inquiries Act, 1920.
1923	III	The Cotton Transport Act, 1923.
1923	XIX	The Indian Official Secrets Act, 1923.
1924	XIII	The Indian (Specified Instruments) Stamp Act, 1924.
1925	IV	The Indian Soldiers (Liaison) Act, 1925.

THE SECOND SCHEDULE—*conold.*

Year.	Number.	Short title.
1925	XII	The Cotton Ginning and Pressing Factories Act, 1925.
1925	XIX	The Provident Funds Act, 1925.
1927	XVI	The Indian Forest Act, 1927.
1928	XII	The Hindu Inheritance (Removal of Disabilities) Act, 1928.
1929	II	The Hindu Law of Inheritance (Amendment) Act, 1929.
1930	XXX	The Hindu Gains of Learning Act, 1930.
1936	V	The Decrees and Orders Validating Act, 1936.

THE THIRD SCHEDULE.

[See section 2 (2).]

Acts Amended.

Name of Act.	Amendments.
The Code of Civil Procedure, 1908 (Act V of 1908).	In section 7 and in rule 1 of Order L in the First Schedule,— (a) after the figures "1887" the words and figures "or under the Berar Small Cause Courts Law, 1905" shall be inserted, and (b) for the words "under that Act" the words "under the said Act or Law" shall be substituted.
The Indian Limitation Act, 1908 (IX of 1908).	In Article 161 of the First Schedule, the word "Provincial", in both places where it occurs, shall be omitted, and after the words "Small Causes" where they occur for the first time, the brackets and words "(other than a Presidency Small Cause Court)" shall be inserted.

THE FOURTH SCHEDULE.

(See section 4.)

Acts which have ceased to have effect and are repealed in Berar.

Year.	Number.	Short Title.
1841	XIX	The Succession (Property Protection) Act, 1841.
1847	XX	The Indian Copyright Act, 1847.
1860	IX	The Employers and Workmen (Disputes) Act, 1860.
1865	X	The Indian Succession Act, 1865.
1865	XXI	The Parsi Intestate Succession Act, 1865.
1881	V	The Probate and Administration Act, 1881.
1881	VI	The District Delegates Act, 1881.
1889	VII	The Succession Certificate Act, 1889.

THE FOURTH SCHEDULE—*continued*.

Year.	Number.	Short title.
1911	XII	The Indian Factories Act, 1911.
1912	V	The Provident Insurance Societies Act, 1912.
1912	VI	The Indian Life Assurance Companies Act, 1912.
1914	VIII	The Indian Motor Vehicles Act, 1914.
1919	X	The Excess Profits Duty Act, 1919.
1923	X	The Indian Paper Currency Act, 1923.
1926	XIX	The Indian Finance Act, 1926.
1927	V	The Indian Finance Act, 1927.
1928	XX	The Indian Insurance Companies Act, 1928.
1929	X	The Indian Census Act, 1929.
1933	XIII	The Safeguarding of Industries Act, 1933.
1935	...	The Criminal Law Amendment Act, 1935.
1936	I	The Italian Loans and Credits Prohibition Act, 1936.

The Assam Rifles Act, 1941.

Received the assent of the Governor General on the 17th March, 1941, and is published in the "*Gazette of India*", Part IV, dated the 22nd March 1941.

Act No. V of 1941.

An Act to provide for the regulation of and the maintenance of discipline in the Assam Rifles.

WHEREAS it is expedient to provide for the regulation of and the maintenance of discipline in the Assam Rifles;

It is hereby enacted as follows :—

1. *Short title, extent and application.*—(1) This Act may be called the Assam Rifles Act, 1941.

(2) It extends to the whole of Assam and applies to all members of the Assam Rifles wherever they may be serving.

Notes.

Object.—"The Assam Rifles is a Civil Irregular Force, of 58 platoons organised in 5 battalions, and stationed on the North East Frontier. Of these 58 platoons, 33 are intended primarily for employment in the tribal areas of the North East Frontier, 10 are stationed in Manipur State for use in that area and in neighbouring tribal areas, and the remaining 15 are stationed in the Assam Province mainly in the excluded areas. Thus 43 out of 58 platoons are maintained for primarily Central purposes and 15 for Provincial purposes and expenditure is shared by the Central and the Province in the ratio of 43/58ths and 15/58ths. The Force is at present regulated by the Assam Rifles Act of 1920, which is an Act of the Local Legislature, and, on the inauguration of the 1937 Constitution, was adapted as a Provincial Act on the assumption that the Assam Rifles were a Military Armed Police Force maintained by the Provincial Government and therefore excluded from entry 1 in List 1 and included in entry 3 in List 2 of the 7th Schedule of the Government of India Act, 1935. So far as any portion of the Force was to be employed for frontier watch and ward in relation to the tribal areas, which included the use of the Force in Manipur, such employment was provided for by a direction to the

Governor of Assam under section 123 (1) of the Government of India Act, 1935.

2. Since the 1st of April 1937 the financial arrangements are that the whole cost of the Force is shown initially in the tribal areas budget of the External Affairs Department with a recovery from the Province of Assam of a portion of the cost on the basis above indicated.

3. The Regulation of the Assam Rifles as a Provincial subject under the present constitution is anomalous in practice. It is incongruous that a Force of which approximately three quarters is normally employed for purposes with which the Provincial Government are not concerned should continue to be governed by a Provincial Act, and it has been held by the Auditor General that since 43/58ths of the Force is maintained and paid for by the Centre no arrangement is appropriate which does not involve the constitution of the Assam Rifles as a Central responsibility. It is further relevant that the Force is officered by officers seconded from the Regular Army and it is clearly appropriate that the authority responsible for the efficiency of command of the Force should be the same as the regulating authority. Finally, the Force is not used as a Police Force for the investigation and detection of crime, but as an irregular Corps, analogous to the Frontier Corps and Frontier Constabulary on the North-West Frontier, for the protection of the border and the areas beyond it, and, in so far as it is used within the Province, to assist the Provincial Government in the maintenance of law and order as an armed reserve.

4. It has, therefore, been decided in consultation and in agreement with the Government of Assam that the Force is classifiable as an "armed force raised in India by the Crown" under entry 1 in the Federal Legislative List. This involves Central Legislation to provide for the enrolment, maintenance and discipline of the Force as a Central Force and the abandonment of the present fictional treatment of it as a Force maintained by the Provincial Government.

5. The present Bill is in the main a re-enactment of the old Provincial Act of 1920—the provisions in clauses 2, 4, 5, 6, 7, 8, 9 and 10 being reproduced almost *verbatim* from the Provincial Act, 1920. [Vide Statement of Objects and Reasons, printed at pages 62-63 of Part V of the *Gazette of India*, 1941.]

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(1) "active service" means service at outposts, or against hostile tribes or other persons in the field;

(2) "Commandant" or "Assistant Commandant" means a person appointed by the Central Government to be a Commandant or an Assistant Commandant of the Assam Rifles;

(3) "District Magistrate" includes a Deputy Commissioner, the Superintendent of the Lushai Hills, the Political Agent in Manipur and the Political Officer of the Sadiya and of the Balipara Frontier Tracts;

(4) "rifleman" means a person appointed as such under section 4 after he has signed the statement in the Schedule in accordance with the provisions of sub-section (2) of section 4, and includes a rifleman appointed under the Assam Rifles Act, 1920, and a Military Police Officer appointed under the Eastern Bengal and Assam Military Police Act, 1912;

(5) "superior officer" means, in relation to any rifleman,—

(a) an officer of a higher class than, or of a higher grade in the same class as, himself, and

(b) any Assistant Commandant or Commandant ;

(6) the expressions "reason to believe", "criminal force", "assault", "fraudulently" and "voluntarily causing hurt" have the meanings assigned to them respectively in the Indian Penal Code.

3. General superintendence and control of the force.—General superintendence and control of the Assam Rifles shall be exercised by such person or authority as the Central Government may appoint in this behalf, and, in the exercise of such superintendence and control, the person or authority so appointed shall be governed by such rules and orders as the Central Government may make in this behalf.

4. Appointment and discharge.—(1) The appointment of all riflemen shall rest with the Commandant.

(2) Before any person is appointed to be a rifleman, the statement in the Schedule shall be read and if necessary explained to him in the presence of a Magistrate, Commandant or Assistant Commandant, and shall be signed by him in acknowledgment of its having been so read to him.

(3) A rifleman shall not be entitled to be discharged except in accordance with the terms of the statement which he has signed under this Act or under the Assam Rifles Act, 1920.

5. Classes and rank.—There may be all or any of the following classes of riflemen, who shall take rank in the order mentioned, namely :—

- (i) Subadars-Major,
- (ii) Subadars,
- (iii) Jemadars,
- (iv) Havildars-Major,
- (v) Havildars,
- (vi) Naiks,
- (vii) Buglers and riflemen,

and such grades in each class as the Central Government may from time to time direct.

6. Heinous offences.—A rifleman who—

(a) begins, excites, causes or joins in any mutiny or being present at any mutiny does not use his utmost endeavours to suppress it, or knowing or having reason to believe in the existence of any mutiny does not without delay give information thereof to his Commanding or other superior officer ; or

(b) uses, or attempts to use, criminal force to, or commits an assault on, his superior officer, knowing or having reason to believe him to be such, whether on or off duty ; or

(c) shamefully abandons or delivers up any garrison, fortress, post or guard, which is committed to his charge or which it is his duty to defend ; or

(d) in the presence of an enemy or of any person in arms against whom it is his duty to act, shamefully casts away his arms or his ammunition, or intentionally uses words or any other means to induce any other rifleman to abstain from acting against the enemy, or to discourage any other rifleman from acting against the enemy ; or

(e) directly or indirectly holds correspondence with, or communicates intelligence to, or assists or relieves any person in arms against the State, or omits to discover immediately to his Commanding or other superior officer any such correspondence or communications coming to his knowledge ; or

(f) directly or indirectly assists or relieves with money, victuals or ammunition, or knowingly harbours or protects, any enemy or person in arms against the State ;

or who, while on active service,—

(g) disobeys the lawful command of his superior officer ; or

(h) deserts or attempts to desert the service ; or

(i) being a sentry, sleeps upon his post, or quits it without being regularly relieved or without leave ; or

(j) leaves his Commanding Officer, or his post or party, to go in search of plunder ; or

(k) quits his guard, picquet, party or patrol without being regularly relieved or without leave ; or

(l) uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to camp or quarters, or forces a safeguard, or breaks into any house or any other place for plunder, or plunders, destroys or damages any property of any kind ; or

(m) intentionally causes or spreads a false alarm in action or in camp, garrison or quarters ;

shall be punished with transportation for life, or with imprisonment which may extend to fourteen years, or with fine which may extend to five hundred rupees, or with both such imprisonment and fine.

7. *Other offences including acts prejudicial to good order and discipline.*—A rifleman who—

(a) is in a state of intoxication when on or detained for any duty, or on parade, or on the line of march ; or

(b) strikes, or forces or attempts to force, any sentry ; or

(c) being in command of a guard, picquet or patrol, refuses to receive any prisoner duly committed to his charge, or, whether in such command or not, releases any prisoner without proper authority or negligently suffers any prisoner to escape ; or

(d) being deputed to any guard, picquet or patrol, quits it without being regularly relieved or without leave ; or

(e) being in command of a guard, picquet or patrol, permits gambling or other behavior prejudicial to good order and discipline ; or

(f) being under arrest or in confinement, leaves his arrest or confinement before he is set at liberty by proper authority ; or

(g) is grossly insubordinate or insolent to his superior officer in the execution of his office ; or

(h) refuses to superintend or assist in the making of any field work or other military work of any description ordered to be made either in quarters or in the field ; or

(i) strikes or otherwise ill-uses any rifleman subordinate to him in rank or position ; or

(j) being in command at any post or on the march and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has committed any riot or trespass, fails, on proof of the truth of the complaint, to have due reparation made as far as possible to the injured person and to report the case to the proper authority ; or

(k) designedly or through neglect injures or loses or fraudulently or without due authority disposes of his arms, clothes, tools, equipment, ammunition, accoutrements or other necessaries, or any such articles entrusted to him or belonging to any other person ;

(l) malingers, feigns or produces disease or infirmity in himself, or intentionally delays his cure, or aggravates his disease or infirmity ;

(m) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person ; or

(n) commits extortion, or without proper authority exacts from any person carriage, portage, or provisions ; or

(o) designedly or through neglect kills, injures, makes away with, ill-treats or loses his horse, or any animal used in the public service ; or who, while not on active service,—

(p) disobeys the lawful command of his superior officer ; or

(q) plunders, destroys or damages any property of any kind ; or

(r) being a sentry, sleeps upon his post, or quits it without being regularly relieved or without leave ; or

(s) deserts or attempts to desert the service ; or

(t) neglects to obey any battalion or other orders, or commits any act or omission prejudicial to good order and discipline, such act or omission not constituting an offence under the Indian Penal Code or other Act in force in Assam,

shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two hundred rupees, or with both.

8. Minor offences and punishments.—(1) A District Magistrate or a Commandant, or subject to the control of the Commandant, an Assistant Commandant, or subject to the control of the Commandant an officer not below the rank of a Jemadar commanding a separate detachment on an outpost or in temporary command at the headquarters of a District during the absence of the District Magistrate, Commandant and Assistant Commandant, may, without a formal trial, award to any rifleman below the rank of a Naik, who is subject to his authority, any of the following punishments for the commission of any petty offence against discipline, which is not otherwise provided for in this Act, or which is not of a sufficiently serious nature to call for prosecution before a criminal Court, that is to say,—

(a) imprisonment in the Quarter Guard, or such other place as may be considered suitable, for a term which may extend to twenty-eight days when the order is passed by a District Magistrate or a Commandant or to seven days when it is passed by any other officer ;

(b) punishment drill, extra guard, fatigue or other duty, not exceeding twenty-eight days in duration, with or without confinement to lines ;

(c) forfeiture of pay and allowances for a period not exceeding twenty-eight days.

(2) Any of the punishments specified in sub-section (1) may be awarded separately or in combination with any one or more of the others, but no award or awards including imprisonment and confinement to lines shall exceed twenty-eight consecutive days.

9. Manner of imprisonment.—Any rifleman sentenced under this Act to imprisonment for a period not exceeding three months shall, when he is also dismissed from the Assam Rifles, be imprisoned in a civil jail, but when he is not also dismissed from the Assam Rifles he may, if the convicting Court or the District Magistrate so directs, be confined in the Quarter Guard or such other place as the Court or Magistrate may consider suitable.

10. Privileges of Commandants and Assistant Commandants.—A Commandant or Assistant Commandant shall be entitled to all the privileges

which a police officer has under sections 42 and 43 of the Police Act, 1861, section 125 of the Indian Evidence Act, 1872, and any other enactment for the time being in force.

11. *Members of the Assam Rifles to be deemed part of His Majesty's Army for certain purposes.*—For the purposes of sections 128, 130 and 131 of the Code of Criminal Procedure, 1898, a Commandant, Assistant Commandant, Subadar-Major, Subadar or Jemadar of the Assam Rifles shall be deemed to be an officer, a Havildar-Major, Havildar or Naik shall be deemed to be a non-commissioned officer and a bugler or rifleman shall be deemed to be a soldier of His Majesty's Army.

12. *Power of Central Government to make rules.*—The Central Government may, as regards the Assam Rifles, make such orders and rules consistent with this Act, as it thinks expedient, relative to the several matters respecting which the Inspector General of Police, with the approval of the Provincial Government, may, as regards the Police Force, frame orders and rules under section 12 of the Police Act, 1861.

13. *Cesser of Assam Act I of 1920 and of appointment of riflemen as police officers.*—The Assam Rifles Act, 1920, shall cease to apply to the Assam Rifles and to riflemen, and all riflemen shall, on the commencement of this Act, cease to be police officers under the Police Act, 1861.

THE SCHEDULE.

STATEMENT.

[See sections 2 (4) and 4 (2).]

1. After you have served for four years in the first instance in the Assam Rifles you have the option of extending the term of your service in the Assam Rifles indefinitely, so long as the Commandant is satisfied with your services, or of claiming your discharge at any time, making your application through the officer to whom you may be subordinate, to a Commandant of the Assam Rifles or to the Magistrate of the District in which you may be serving; and you will be granted your discharge after two months from the date of your application, unless you are on active service or unless your discharge would cause the vacancies in the Assam Rifles to exceed one-tenth of the sanctioned strength. In either of the above cases you must continue to serve in the Assam Rifles until the objection is waived by competent authority or removed.

2. On your enlistment, appointment or training as a musician (piper, drummer, or bandsman), bugler, signaller, writer, soldier-clerk, havildar-compounder or as an artificer (armourer, mochi, carpenter, stone-mason, or motor driver) you must, in spite of the provisions of paragraph 1 above, serve in the Assam Rifles for eight years from the date of your enlistment or the completion of your training, as the case may be.

3. On your deputation for a specialist course at an Army Training Centre you must sign an undertaking, before leaving the battalion to proceed on the course, that you will not, in spite of the provisions of paragraph 1 above, apply for discharge during the four years following your attendance at the Army Training Course.

4. On your deputation to the Educational or Veterinary Course you must sign an undertaking, before leaving the battalion to proceed on the Course, that you will not, in spite of the provisions of paragraph 1 above, apply for discharge during the eight years following your attendance at the Course.

5. In the event of your re-enlistment after you have been discharged, you will have no claim to reckon for pension or any other purpose your service previous to your discharge.

Signature of rifleman in acknowledgment of the above having been read to him. }

A. B.

Signed in my presence after I had ascertained that A. B. understood the purport of what he signed. }

C. D.

Magistrate, Commandant or Assistant Commandant.

The Indian Railways (Amendment) Act, 1941.

Received the assent of the Governor General on the 17th March 1941, and is published in the "Gazette of India", Part IV, dated the 22nd March 1941.

Act No. VI of 1941.

An Act further to amend the Indian Railways Act, 1890.

WHEREAS it is expedient further to amend the Indian Railways Act, 1890, for the purposes hereinafter appearing :

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Indian Railways (Amendment) Act, 1941.

Notes.

Object.—"Experience has shown that the provisions in the Indian Railways Act, 1890, relating to ticketless travellers are insufficiently deterrent. The Legislative Assembly in 1936-37 considered and referred to a Select Committee a Bill, which has since lapsed, for the purpose of remedying this defect. The present Bill has the same object and seeks to achieve it mainly by the provision of more appropriate penalties than are at present possible. The Bill also seeks to place remaining in a carriage without a ticket on the same footing as entry into a carriage without a ticket, and it reproduces a provision, contained in the previous Bill, for the ejectment of ticketless travellers." [*Vide Statement of Objects and Reasons, printed at page 250 of Part V of the Gazette of India, 1940.*]

2. *Amendment of section 68, Act IX of 1890.*—(1) Section 68 of the Indian Railways Act, 1890 (hereinafter referred to as the said Act), shall be renumbered as sub-section (1) of that section and in the said section as so re-numbered after the word "enter" the words "or remain in" shall be inserted.

(2) To the said section as so re-numbered and amended the following sub-section shall be added, namely :—

"(2) A railway servant when granting the permission referred to in sub-section (1) shall ordinarily, if empowered in this behalf by the railway administration, grant to the passenger a certificate that the passenger has been permitted to travel in such carriage upon condition that he subsequently pays the fare payable for the distance to be travelled."

3. *Amendment of section 112, Act IX of 1890.*—(1) Section 112 of the said Act shall be re-numbered as sub-section (1) of that section and in the sub-section as so re-numbered—

(a) in clause (a), for the words and figures "in contravention of section 68 any carriage on a railway" the words and figures or "remains in any carriage on a railway in contravention of section 68" shall be substituted; and

(b) after the words "shall be punished" the words "with imprisonment for a term which may extend to three months or" shall be inserted.

(2) To the said section as so re-numbered and amended the following sub-section shall be added, namely:—

"(2) Notwithstanding anything contained in section 65 of the Indian Penal Code, the Court convicting an offender under this section may direct that the offender in default of payment of any fine inflicted by the Court, shall suffer imprisonment for a term which may extend to three months."

4. *Amendment of section 113, Act IX of 1890.*—In section 113 of the said Act,—

(a) for sub-section (3) the following sub-section shall be substituted, namely:—

"(3) The excess charge referred to in sub-section (1) and sub-section (2) shall be a sum equivalent to the amount otherwise payable under those sub-sections, or eight annas, whichever is greater:

Provided that where the passenger has immediately after incurring the charge and before being detected by a railway servant notified to the railway servant on duty with the train the fact of the charge having been incurred, the excess charge shall be one-sixth of the excess charge otherwise payable calculated to the nearest anna, or two annas, whichever is greater:

Provided further that if the passenger has with him a certificate granted under sub-section (2) of section 68, no excess charge shall be payable."

(b) in sub-section (4), for the words beginning with "the sum payable by him shall" and ending with "be paid to the railway administration" the following words shall be substituted, namely:—

"any railway servant appointed by the railway administration in this behalf may apply to any Magistrate of the first or second class for the recovery of the sum payable as if it were a fine, and the Magistrate if satisfied that the sum is payable shall order it to be so recovered, and may order that the person liable for the payment shall in default of payment suffer imprisonment of either description for a term which may extend to one month. Any sum recovered under this sub-section shall, as it is recovered, be paid to the railway administration".

5. *Insertion of new section 113A in Act IX of 1890.*—After section 113 of the said Act the following section shall be inserted, namely:—

"113A. *Power to remove persons from railway carriage.*—Any person who, without having obtained the permission of a railway servant, travels or attempts to travel in a carriage without having a proper pass or ticket with him, or in a carriage of a higher class than that for which he has obtained a pass or purchased a ticket, or in a carriage beyond the place authorised by his pass or ticket, or who being in a carriage fails, or refuses to present for examination or to deliver up his pass or ticket immediately on requisition being made therefor under section 69, may be removed from the carriage by any railway servant authorised by the railway administration in this behalf or by any other person whom such railway servant may call to his aid, unless he then and there pays the fare and the excess charge which he is liable to pay under section 113:

Provided that nothing in this section shall be deemed to preclude a

person removed from a carriage of a higher class from continuing his journey in a carriage of a class for which he holds a pass or ticket :

Provided further that women and children, if unaccompanied by male passengers shall not be so removed except either at the station at which they first enter the train or at a junction or terminal station or station at the headquarters of a civil district and only between the hours of 6 A.M. and 6 P. M."

The Indian Finance Act, 1941.

Received the assent of the Governor General on the 31st March 1941, and is published in the *Gazette of India*, Part IV, dated the 5th April 1941.

Act No. VII of 1941.

An Act to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary the rate of the excise duty on matches leviable under the Matches (Excise Duty) Act, 1934, to vary the rate of the excise duty on mechanical lighters leviable under the Mechanical Lighters (Excise Duty) Act, 1934, to vary the rate of the duty on artificial silk yarn and thread leviable under the Indian Tariff Act, 1934, to fix maximum rates of postage under the Indian Post Office Act, 1898, to fix rates of income-tax and super-tax and to continue the charge and levy of excess profits tax and fix the rate at which excess profits tax shall be charged.

WHEREAS it is expedient to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary the rate of the excise duty on matches leviable under the Matches (Excise Duty) Act, 1934, to vary the rate of the excise duty on mechanical lighters leviable under the Mechanical Lighters (Excise Duty) Act, 1934, to vary the rate of the duty on artificial silk yarn and thread leviable under the Indian Tariff Act, 1934, to fix maximum rates of postage under the Indian Post Office Act, 1898, to fix rates of income-tax and super-tax and to continue the charge and levy of excess profits tax and fix the rate at which excess profits tax shall be charged ;

It is hereby enacted as follows :—

1. *Short title and extent.*—(1) This Act may be called the Indian Finance Act, 1941.

(2) It extends to the whole of British India.

Notes.

Object.—“The object of this Bill is to continue for a further period of one year the existing rate of salt duty, the present inland postage rates and the present rates of income-tax and super-tax ; to increase the rates of duty on matches, mechanical lighters, artificial silk yarn and thread ; to increase the Central surcharge on taxes on income to 33 1/3 per cent. and to fix the rate of excess profits tax at 66 2/3 per cent.

2. Clause 2 provides for the continuance for a further period of one year of the existing provisions regarding salt duty. The duty of Rs. 1-4-0 per maund on salt remains liable to the additional duty imposed under section 5 of the Indian Finance (Supplementary and Extending) Act, 1931.

3. Clause 3 provides for the doubling of the excise duty on matches, which will automatically increase the customs import duty to the extent of the increased excise.

4. Clause 4 provides for the doubling of the excise duty on mechanical lighters, which will automatically increase the customs import duty to the extent of the increased excise.

5. Clause 5 provides for the increase of the alternative specific import duty on artificial silk yarn and thread from three annas to five annas per pound.

6. Clause 6 provides for the continuance for a further period of one year of the present inland postage rates.

7. Clause 7 provides for the continuance for the further period of one year of the existing rates of income-tax and super-tax increased by a surcharge for the purposes of the Central Government of $33 \frac{1}{3}$ per cent.

8. Clause 8 provides for the increase in the rate of the excess profits tax from 50 per cent. to $66 \frac{2}{3}$ per cent." [Vide Statement of Objects and Reasons, printed at page 76 of Part V of the *Gazette of India*, 1941.]

2. *Fixation of Salt Duty.*—The provisions of section 7 of the Indian Salt Act, 1882, shall, in so far as they enable the Central Government to impose by rule made under that section a duty on salt manufactured in, or imported into, any part of British India, be construed as if, for the year beginning on the 1st day of April, 1941, they imposed such duty at the rate of one rupee and four annas per maund of eighty-two and two-sevenths pounds avoirdupois of salt manufactured in, or imported by land into, any such part, and such duty shall, for all the purposes of the said Act, be deemed to have been imposed by rule made under that section.

3. *Excise duty on Matches.*—For section 4 of the Matches (Excise Duty) Act, 1934, the following section shall be substituted, namely :—

"4. The duty payable under section 3 shall be levied at the following rates, namely :—

(a) on matches in boxes or booklets containing on an average not more than eighty—

(i) if the average number is forty or less, at the rate of two rupees per gross of boxes or booklets,

(ii) if the average number is more than forty, but not more than sixty, at the rate of three rupees per gross of boxes or booklets, and

(iii) if the average number is more than sixty, at the rate of four rupees per gross of boxes or booklets ;

(b) on all other matches, at such rate as the Central Government may prescribe."

4. *Excise Duty on Mechanical Lighters.*—In section 3 of the Mechanical Lighters (Excise Duty) Act, 1934, for the words "one rupee and eight annas" the words "three rupees" shall be substituted.

5. *Import Duty on Artificial Silk Yarn and Thread.*—In the First Schedule to the Indian Tariff Act, 1934, in Item No. 47 (2), for the entry "25 per cent. *ad valorem* or 3 annas per lb., whichever is higher" in the fourth column the following entry shall be substituted, namely :—

"25 per cent. *ad valorem* or 5 annas per lb., whichever is higher".

6. *Inland Postage rates.*—For the year beginning on the 1st day of April, 1941, the Schedule contained in the Schedule to this Act shall be inserted in the Indian Post Office Act, 1898, as the First Schedule to that Act.

7. *Income-tax and Super-tax.*—(1) Subject to the provisions of sub-sections (2) and (3)—

(a) income-tax for the year beginning on the 1st day of April, 1941,

shall be charged at the rates specified in Part I of Schedule II to the Indian Finance Act, 1939, increased in each case by a surcharge for the purposes of the Central Government amounting to one-third of each such rate;

(b) rates of super-tax for the year beginning on the 1st day of April, 1941, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be the rates specified in Part II of Schedule II to the Indian Finance Act, 1939, increased—

(i) in the case of the rate applicable to a company, by a surcharge amounting to one-third of that rate, and.

(ii) in the case of every other rate, by a surcharge for the purposes of the Central Government amounting to one-third of each such rate:

Provided that in the case of an association of persons being a co-operative society, other than the Sanikatta Siltowners' Society in the Bombay Presidency, for the time being registered under the Co-operative Societies Act, 1912, or under an Act of the Provincial Legislature governing the registration of Co-operative Societies, the rates of super-tax for the year beginning on the 1st day of April, 1941, shall be the rates of super-tax specified in the proviso to clause (b) of sub-section (1) of section 7 of the Indian Finance Act, 1940, increased in each case by a surcharge for the purposes of the Central Government amounting to one-third of each such rate.

(2) In making any assessment for the year ending on the 31st day of March, 1942,—

(a) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" or under the head "Interest on Securities" or any income from dividends in respect of which he is deemed under section 49B of the Indian Income-tax Act, 1922, to have paid income-tax imposed in British India, the income-tax payable by the assessee on that part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Indian Finance Act, 1940, read with sub-section (1) of section 3 of the Indian Finance (No. 2) Act, 1940, on his total income the same proportion as the amount of such inclusions bears to his total income;

(b) where the total income of an assessee, not being a company, includes any income chargeable under the head "Salaries" on which super-tax has been or might have been deducted under the provisions of sub-section (2) of section 18 of the Indian Income-tax Act, 1922, the super-tax payable by the assessee on that portion of his total income which consists of such inclusions shall be an amount bearing to the total amount of super-tax payable according to the rates applicable under the operation of the Indian Finance Act, 1940, read with sub-section (1) of section 3 of the Indian Finance (No. 2) Act, 1940, on his total income the same proportion as the amount of such inclusions bears to his total income.

(3) In cases to which section 17 of the Indian Income-tax Act, 1922, applies, the tax chargeable shall be determined as provided in that section but with reference to the rates imposed by sub-section (1) of this section, and in accordance with the provisions of sub-section (2) of this section where applicable.

(4) For the purposes of this section and of the rates of tax imposed thereby, the expression "total income" means total income as determined

for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922.

8. *Continuance of and rate of Excess Profits Tax.*—(1) In sub-clause (a) of clause (6) of section 2 of the Excess Profits Tax Act, 1940, for the words and figures "31st day of March, 1941," the words and figures "31st day of March, 1942," shall be substituted.

(2) The excess profits tax imposed by section 4 of the Excess Profits Tax Act, 1940, shall, in respect of any chargeable accounting period beginning after the 31st day of March, 1941, be an amount equal to sixty-six and two-thirds per cent. of the amount by which the profits of the business during that chargeable accounting period exceed the standard profits.

THE SCHEDULE.

Schedule to be inserted in the Indian Post Office Act, 1898.

[See section 6].

THE FIRST SCHEDULE.

INLAND POSTAGE RATES.

(See section 7.)

Letters.

For a weight not exceeding one tola ... One and a quarter annas.
For every tola, or fraction thereof, exceeding one tola ... Half an anna.

Postcards.

Single ... Nine pies.
Reply ... One and a half annas.

Book, Pattern and Sample Packets.

For the first five tolas or fraction thereof ... Nine pies.
For every additional two and a half tolas, or fraction thereof, in excess of five tolas ... Three pies.

Registered Newspapers.

For a weight not exceeding ten tolas ... Quarter of an anna.
For a weight exceeding ten tolas and not exceeding twenty tolas ... Half an anna.
For every twenty tolas, or fraction thereof, exceeding twenty tolas ... Half an anna.
In the case of more than one copy of the same issue of a registered newspaper being carried in the same packet—
For a weight not exceeding ten tolas ... Half an anna.
For every additional five tolas, or fraction thereof, in excess of ten tolas ... Quarter of an anna.
Provided that such packet shall not be delivered at any addressee's residence but shall be given to a recognised agent at the post office.

Parcels.

For a weight not exceeding forty tolas ... Four annas.
For every forty tolas, or fraction thereof, exceeding forty tolas ... Four annas.

The Protective Duties Continuation Act, 1941.

Received the assent of the Governor General on the 31st March 1941 and is published in the *Gazette of India*, Part IV, dated the 5th April 1941.

India Act No. VIII of 1941.

An Act to extend the date up to which certain duties characterised as protective in the First Schedule to the Indian Tariff Act, 1934, shall have effect.

WHEREAS it is expedient to extend the date up to which certain duties characterised as protective in the First Schedule to the Indian Tariff Act, 1934, shall have effect;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Protective Duties Continuation Act, 1941.

Notes.

Object.—"The existing protective duties on iron and steel manufactures, silver thread and wire (including so-called gold thread and wire mainly made of silver) and sugar expire at the end of this month. Under present conditions it is impossible to ascertain the quantum of protection, if any, required during normal years for the different articles, and the object of this Act is to maintain the *status quo* for another year." [Vide Statement of Objects and Reasons, printed at page 116 of Part V of the *Gazette of India*, 1941.]

2. *Amendment of the First Schedule, Act XXXII of 1934.*—In the First Schedule to the Indian Tariff Act, 1934, in Item No. 17, and in Item No. 61 (5), and in Items Nos 63 (2), 63 (3), 63 (6), 63 (9), 63 (10), 63 (12), 63 (15), 63 (17), 63 (19), 63 (20), 63 (21), 63 (25) and 63 (27), and in Item No. 74, for the entry or entries in the seventh column "March 31st, 1941" the entry or entries "March 31st, 1942" shall be substituted.

3. *Amendment of section 3, Act XIII of 1932.*—In section 3 of the Sugar Industry (Protection) Act, 1932, for the figure "1941" the figure "1942" shall be substituted.

—The Indian Tariff (Amendment) Act, 1941.

Received the assent of the Governor General on the 31st March 1941 and is published in the *Gazette of India*, Part IV, dated the 5th April 1941.

India Act No. IX of 1941.

An Act further to amend the Indian Tariff Act, 1934.

WHEREAS it is expedient further to amend the Indian Tariff Act, 1934, for the purpose hereinafter appearing;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Indian Tariff (Amendment) Act, 1941.

Notes.

Object.—Since the passing of the Indian Tariff (Second Amendment) Act, 1940, the Government of India have maintained a careful watch on the course of wheat prices and they are satisfied that taking all circumstances into consideration it is desirable to continue the protective duties on wheat and wheat flour. The Act, therefore, extends the existing import duties on those commodities for a further period of one year, namely, up to the 31st of March, 1942. [Vide Statement of Objects and Reasons, printed at page 117 of Part V of the *Gazette of India*, 1941.]

2. *Amendments of the First Schedule, Act XXXII of 1934.*—In the First Schedule to the Indian Tariff Act, 1934, in Items Nos. 10 (1) and 11 (1), in the last column, for the figure "1941" the figure "1942" shall be substituted.

• The Tyres (Excise Duty) Act, 1941.

Received the assent of the Governor General on the 31st March 1941 and is published in the *Gazette of India*, Part IV, dated the 5th April 1941.

India Act No. X of 1941.

An Act to provide for the imposition and collection of an excise duty on tyres.

WHEREAS it is expedient to provide for the imposition and collection of an excise duty on tyres;

It is hereby enacted as follows:—

1. *Short title and extent.*—(1) This Act may be called the Tyres (Excise Duty) Act, 1941.

(2) It extends to the whole of British India.

Notes.

Object.—The object of this Act is to impose an excise duty of ten per cent. ad valorem on pneumatic rubber tyres and tubes. [Vide Statement of Objects and Reasons, printed at page 78 of Part V of the *Gazette of India*, 1941.]

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) "manufactory" means any premises wherein tyres are manufactured;

(b) "owner" includes any person expressly or impliedly authorised by an owner of a manufactory to be his agent in respect of the manufactory;

(c) "tyre" means a pneumatic tyre in the manufacture of which rubber is used, and includes the inner tube and the outer cover of such a tyre.

3. *Imposition of and amount of duty.*—(1) A duty of excise at the rate of ten per cent. on the value thereof shall be levied on all tyres manufactured in any manufactory in British India and issued out of such manufactory on or after the 1st day of April, 1941, and shall be payable by the owner of the manufactory.

(2) For the purposes of levying the duty imposed by sub-section (1) the Central Government may, by notification in the official Gazette, fix the values of tyres or of any class of tyres; and where no such value has been fixed the value of a tyre shall be deemed to be the wholesale cash price, less trade discount, for which a tyre of the like kind and quality is sold or is capable of being sold by a manufactory without any abatement or deduction whatever except the amount of the excise duty payable on it at the time of issue out of the manufactory.

4. *Recovery of duty with penalty.*—(1) If any duty payable under section 3 is not paid within the time fixed by a notice issued in accordance with any rules made in this behalf under this Act, it shall be deemed to be an arrear, and the authority to which such duty is payable may, in lieu thereof, recover any sum, not exceeding double the amount of the duty unpaid, which such authority may in its discretion think it reasonable to require.

(2) An arrear of duty, or any sum recoverable in lieu thereof under this section, shall be recoverable as an arrear of land-revenue and shall be recoverable in addition to, and not in substitution for, any other penalty incurred under this Act.

5. Issue from manufactory.—(1) No person shall issue any tyres out of any manufactory except in accordance with the provisions of rules made under section 8 regulating such issue, or, until such rules are made, in accordance with the general or special orders of the Central Government.

(2) Whoever contravenes any such rule or order shall be punishable with fine which may extend to one thousand rupees or to a sum double the amount of the duty on any tyres issued in contravention of such rule or order, whichever is greater.

6. Application of the provisions of Act VIII of 1878 to the duty on tyres.—The Central Government may, by notification in the official Gazette, declare that any of the provisions of the Sea Customs Act, 1878, relating to the levy of and exemption from customs duties, drawback of duty, warehousing, offences and penalties, confiscation and procedure relating to offences and appeals shall, with such modifications and alterations as it may consider necessary or desirable to adapt them to the circumstances, be applicable in regard to like matters in respect of the duty imposed by sub-section (1) of section 3.

7. Power of Central Government to prohibit import.—The Central Government may, by notification in the official Gazette, prohibit absolutely, or with such exceptions as it thinks fit, the bringing of tyres into British India from the territory of any specified Indian State.

8. Power to make rules.—(1) The Central Government may, by notification in the official Gazette, make rules—

(a) imposing on owners of manufactories the duty of furnishing returns and keeping records and books, and prescribing the form of such returns, records and books and the particulars to be contained therein, and the manner in which the same are to be verified;

(b) regulating the issue of tyres out of manufactories;

(c) providing for the assessment and collection of the duty, the issue of notices requiring payment, the authority to whom the duty shall be payable and the recovery of arrears;

(d) authorising and providing for the inspection of manufactories; and

(e) generally for carrying into effect the provisions of this Act.

(2) Such rules may provide that any breach thereof shall be punishable with fine which may extend to five hundred rupees.

Provided that the breach of any rule made under clause (b) of sub-section (1) shall be punishable with the punishment provided for an offence against section 5.

The Excess Profits Tax (Amendment) Act, 1941.

Received the assent of the Governor General on the 31st March, 1941, and is published in the *Gazette of India*, Part IV, dated the 5th April 1941.

Act No. XI of 1941.

An Act further to amend the Excess Profits Tax Act, 1940.

WHEREAS it is expedient further to amend the Excess Profits Tax Act, 1940, for the purposes hereinafter appearing:

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Excess Profits Tax (Amendment) Act, 1941.

Notes.

• **Object.**—“The main object of this Bill is to provide for the consequences of a change in the period of charge and the rate of the Excess Profits Tax. Clause 3 provides for charge of the tax at the original and the increased rates, respectively, for the parts of a chargeable accounting period falling before and after the end of March, 1941. Clause 4 provides for the setting off of deficiencies and gives the assessee a claim to have a deficiency occurring in a period after the end of March, 1941, set-off against an excess occurring in a period after the end of March, 1941. The clause also provides that for this purpose a previous set-off against an excess occurring in a period before the end of March, 1941, may be cancelled.”

• Opportunity is also taken in the Bill to make some minor drafting amendments while clause 6 corrects an inadvertent omission from the first proviso to rule 1 of the First Schedule “[Vide Statement of Objects and Reasons, printed at page 109 of Part V of the *Gazette India*, 1941.]”

2. *Amendment of section 2, Act XV of 1940.*—In section 2 of the Excess Profits Tax Act, 1940 (hereinafter referred to as the said Act), after clause (16) the following clause shall be inserted, namely:—

“(16A) “ordinary share capital” has the meaning assigned to that expression in sub-section (8) of section 9;”

3. *Amendment of section 4, Act XV of 1940.*—Section 4 of the said Act shall be re-numbered as sub-section (1) of that section, and to the section as so re-numbered the following sub-section shall be added, namely:—

“(2) Where a chargeable accounting period falls partly before and partly after the end of March, 1941, the foregoing provisions of this section shall apply as if so much of that chargeable accounting period as falls before, and so much of that chargeable accounting period as falls after, the said end of March were each a separate chargeable accounting period, and as if the excess of profits of that separate chargeable accounting period were an apportioned part of the excess of profits arising in the whole period; and any apportionment required to be made by this sub-section shall be made by reference to the number of months or fractions of months in each of the parts of the whole chargeable accounting period”.

Notes.

• Where an accounting period falls partly before and partly after the end of March, 1941, it does not become two chargeable accounting periods, one ending on 31st March, 1941, and the other commencing on 1st April, 1941. The computation of profits and of increase or decrease of capital is to be made for the whole period and the resultant excess or deficiency is to be apportioned on the time basis between the part ending at and that commencing after the end of March, 1941. In the case of an excess, the first part is to be charged at 50 per cent. and the latter part at 66 2/3 per cent.

• 4. *Amendment of section 7, Act XV of 1940.*—To section 7 of the said Act the following proviso shall be added, namely:—

“Provided that a deficiency of profits occurring in a chargeable accounting period beginning on or after the 1st day of April, 1941, shall first be applied so as to reduce profits chargeable to tax arising in another charge.

able accounting period beginning on or after the said 1st day of April, and a deficiency of profits occurring in a chargeable accounting period ending on or before the 31st day of March, 1941, shall first be applied so as to reduce profits chargeable to tax arising in another chargeable accounting period ending on or before the said 31st day of March; and where owing to an insufficiency of profits for chargeable accounting periods ending on or before the said 31st day of March, or, as the case may be, beginning on or after the said 1st day of April, the whole or any part of the deficiency is applied otherwise than as aforesaid,—

(a) the application shall be treated as provisional only; and

(b) if it thereafter appears that there is no longer such an insufficiency as aforesaid, such adjustment shall be made as the Central Board of Revenue may by written order direct.

Provided further that where a chargeable accounting period falls partly before and partly after the end of March 1941, the provisions of the preceding proviso shall apply as if so much of the chargeable accounting period as falls before, and so much of the chargeable accounting period, as falls after, the said end of March, were each a separate chargeable accounting period, and as if the deficiency of profits of that separate chargeable accounting period were an apportioned part of the deficiency of profits occurring in the whole period; and any apportionment required to be made by this proviso shall be made by reference to the number of months or fractions of months in each of the parts of the whole chargeable accounting period".

Notes.

The effect of this clause may be best illustrated by an example:

A concern which makes up its accounts regularly to the 31st December shows the following results:—

Chargeable accounting period of
4 months to 31st December

1939 Excess profits Rs. 20,000 assessed at 50%

Chargeable accounting period of 12

months to 31st December 1940 . Excess profits Rs. 10,000 assessed at 50%

Chargeable accounting period of 12

months to 31st December 1941 . Deficiency Rs. 12,000, apportioned—Rs. 3,000 to the 3 months to 31st March 1941;
Rs. 9,000 to the 9 months to 31st December 1941.

Set-off of the Rs. 12,000 deficiency is claimed against the excess profits of previous periods under section 9 of the Act, and tax is refunded at 50 per cent. = Rs. 6,000, the set-off being, under the clause, provisional only so far as the Rs. 9,000 for the period after the 31st March, 1941, is concerned.

If in the three months ending 31st March, 1942, excess profits arise amounting to Rs. 10,000 they will be chargeable at the rate of $66\frac{2}{3}$ per cent. It would be to the advantage of the assessee to set-off thereagainst, instead of against excess profits chargeable at 50 per cent., the deficiency of Rs. 9,000 of the period of nine months ended 31st December, 1941. This is permitted under the clause and the original provisional set-off

would be cancelled while the excess profits chargeable at 66 2/3 per cent. would be reduced:

5. *Amendment of section 17, Act XV of 1940.*—In sub-section (1) of section 17 of the said Act,—

(a) in the first proviso, for the words "first proviso" the words "second proviso" shall be substituted;

(b) in the second proviso, for the word "modifications" the following words shall be substituted, namely:—

"refusal to make modifications or against any modifications".

6. *Amendment of rule 1, First Schedule, Act XV of 1940.*—In the first proviso to rule 1 of the First Schedule to the said Act, after the words "Provided that any sums" the brackets and words "(other than any interest paid by a firm to a partner of the firm)" shall be inserted and shall be deemed always to have been inserted.

The Delhi Restriction of Uses of Land Act, 1941.

Received the assent of the Governor General on the 8th April 1941 and is published in the *Gazette of India*, Part IV, dated the 12th April 1941.

Act No. XII of 1941.

An Act to regulate in the Province of Delhi the use of land for purposes other than agricultural purposes.

WHEREAS it is expedient to regulate in the Province of Delhi the use of land for purposes other than agricultural purposes; It is hereby enacted as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Delhi Restriction of Uses of Land Act, 1941.

(2) It extends to the Province of Delhi.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

Notes.

• **Object**—"At present there is no legal power to control building development along main roads in the Delhi Province outside the Delhi and New Delhi municipal areas. Extra-municipal areas adjoining main roads leading to important towns have obvious attractions as building sites; the occupants of buildings in such areas can enjoy many of the amenities of town life without sharing the burden of municipal taxation or being subject to the control that ensures good sanitation or well-ordered development. For example, uncontrolled development of roadside areas outside the municipal limits of New Delhi already threatens to become a serious obstacle to the future systematic expansion of New Delhi,—an expansion which the growth of population is certain to render inevitable in the coming years. The Bill enables the necessary control to be exercised over areas adjacent to main roads in order to prevent such problems developing in Delhi Province.

2. The Bill also includes provision for control by means of licences of the use of land for brickfields and other similar purposes. Unregulated excavations in connection with brickfields and for other similar purposes not only result in the creation of breeding places for malaria-carrying mosquitoes but also frequently render future development of the land for building purposes impossible without expensive levelling operations. For these reasons it is necessary that such operations should be controlled. "[Vide Statement of Objects and Reasons, printed at page 69 of Part V of the *Gazette of India*, 1941.]

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(1) "agriculture" includes horticulture and the planting and upkeep of orchards;

(2) "building" has the same meaning as in clause (2) of section 3 of the Punjab Municipal Act, 1911;

(3) "Chief Commissioner" means the Chief Commissioner of Delhi;

(4) "Deputy Commissioner" means the Deputy Commissioner of Delhi and includes any authority, not being an officer employed by the Delhi Improvement Trust, appointed by the Chief Commissioner, by notification in the official Gazette, to perform all or any of the functions of the Deputy Commissioner under this Act;

(5) "place of worship" includes an *imambara*, *dargah*, *karbala* or *takya*;

(6) "prescribed" means prescribed by rules made under this Act;

(7) "road" means a metalled road maintained by the Central Government or by a local authority; and

(8) the expression "to erect or re-erect" in relation to any building has the same meaning as in clause (5) of section 3 of the Punjab Municipal Act, 1911.

3. *Declaration of controlled area.*—(1) The Chief Commissioner may, with the previous sanction of the Central Government, by notification in the official Gazette, declare any land adjacent to and within a distance of four hundred and forty yards from the centre line of any road to be a controlled area for the purposes of this Act.

(2) Not less than three months before making a declaration under sub-section (1) the Chief Commissioner shall cause to be published in the official Gazette and in at least two newspapers printed in a language other than English a notification stating that he proposes, with the previous sanction of the Central Government, to make such a declaration and specifying therein the boundaries of the land in respect of which the declaration is proposed to be made, and copies of every such notification or of the substance thereof shall be published by the Deputy Commissioner in such manner as he thinks fit at his office and in every revenue estate of which any part is included within the said boundaries.

(3) Any person interested in any land included within the said boundaries may, at any time before the expiration of thirty days from the last date on which a copy of such notification is published by the Deputy Commissioner, object to the making of the declaration or to the inclusion of his land or any part of it within the said boundaries.

(4) Every objection under sub-section (3) shall be made to the Deputy Commissioner in writing, and the Deputy Commissioner shall give to every person so objecting an opportunity of being heard either in person or by pleader, and shall after all such objections have been heard and after such further enquiry, if any, as he thinks necessary, forward to the Chief Commissioner the record of the proceedings held by him together with a report setting forth his recommendations on the objections.

(5) If before the expiration of the time allowed by sub-section (3) for the filing of objections no objection has been made, the Chief Commissioner may proceed at once to the making of a declaration under sub-section (1). If any such objections have been made, the Chief Commissioner shall consider the record and the report referred to in sub-section (4) and shall hear any parties applying to be heard and may either—

(a) abandon the proposal to make a declaration under sub-section (1), or.

(b) make such a declaration in respect of either the whole or a part or parts of the land included within the boundaries specified in the notification under sub-section (2).

(6) For the purposes of sub-section (3) a person shall be deemed to be interested in land if he is a "person interested" as defined in clause (b) of section 3 of the Land Acquisition Act, 1894, for the purposes of that Act or, where the land is land occupied by or for the purposes of a mosque, *imambara*, *dargah*, *karbala*, *lajya* or Muslim graveyard, if he is a Muslim.

(7) A declaration made under sub-section (1) shall, unless and until it is withdrawn, be conclusive evidence of the fact that the area to which it relates is a controlled area.

4. *Plans of controlled areas to be deposited at certain offices.*—

(1) The Deputy Commissioner shall deposit at his office and at the office of the Municipal Committee, New Delhi, and at such other places as he considers necessary, plans showing all lands declared to be controlled areas for the purposes of this Act, and setting forth the nature of the restrictions applicable to the land in any such controlled area.

(2) The plans so deposited shall be available for inspection by the public free of charge at all reasonable times.

5. *Restrictions on building, etc., in a controlled area.*—No person shall erect or re-erect any building, or make or extend any excavation, or lay out any means of access to a road in a controlled area except with the previous permission of the Deputy Commissioner in writing.

6. *Application for permission to build, etc., and the grant or refusal of such permission.*—(1) Every person desiring to obtain the permission referred to in section 5 shall make an application in writing to the Deputy Commissioner in such form and containing such information in respect of the building, excavation or means of access to which the application relates as may be prescribed.

(2) On receipt of such application the Deputy Commissioner, after making such enquiry as he considers necessary, shall, by order in writing, either—

(a) grant the permission, subject to such conditions, if any, as may be specified in the order; or

(b) refuse to grant such permission.

(3) When the Deputy Commissioner grants permission subject to conditions under clause (a) of sub-section (2) or refuses to grant permission under clause (b) of sub-section (2), the conditions imposed or the grounds of refusal shall be such as are reasonable having regard to the circumstances of each case.

(4) The Deputy Commissioner shall not refuse permission to the erection or re-erection of a building, not being a dwelling house, if such building is required for purposes subservient to agriculture, nor shall the permission to erect or re-erect any such building be made subject to any conditions other than those which may be necessary to ensure that the building will be used solely for the purposes specified in the application for permission.

(5) The Deputy Commissioner shall not refuse permission to the erection or re-erection of a building which was in existence on the date on which the declaration under sub-section (1) of section 3 was made, nor shall

he impose any conditions in respect of such erection or re-erection unless it involves the addition of one or more storeys to the building or the extension of the plinth area of the building by more than one-eighth of the original plinth area, or there is a probability that the building will be used for a purpose other than that for which it was used on the date on which the said declaration was made.

(6) If at the expiration of a period of three months after an application under sub-section (1) has been made to the Deputy Commissioner no order in writing has been passed by the Deputy Commissioner permission shall be deemed to have been given without the imposition of any conditions.

(7) The Deputy Commissioner shall maintain a register with sufficient particulars of all permissions given by him under this section and the register shall be available for inspection without charge by all persons interested and such persons shall be entitled to take extracts therefrom.

7. Right of appeal.—(1) Any person aggrieved by an order of the Deputy Commissioner under sub-section (2) of section 6 granting permission subject to conditions or refusing permission may within thirty days from the date of such order prefer an appeal to the Chief Commissioner.

(2) The order of the Chief Commissioner on appeal shall be final.

8. Compensation.—(1) No person shall be entitled to claim compensation under this or any other Act for any injury, damage or loss caused or alleged to have been caused by an order—

(a) refusing permission to make or extend an excavation, or granting such permission but imposing conditions on the grant, or

(b) refusing permission to lay out a means of access to a road, or granting such permission but imposing conditions on the grant, or

(c) granting permission to erect or re-erect a building but imposing conditions on the grant;

(2) When an order has been made refusing permission to erect or re-erect a building any person who has exercised the right of appeal given by sub-section (1) of section 7 may, within three months of the date of the order of the Chief Commissioner, make to the Chief Commissioner a claim for compensation on the ground that his interest in the land concerned is injuriously affected by the said order:

Provided that no claim for compensation may be made under this sub-section in respect of any land situated in a controlled area adjoining a road which has been constructed after the commencement of this Act or which was not at the commencement of this Act a road within the meaning of clause (4) of section 2.

(3) On receipt of a claim under sub-section (2) the Chief Commissioner shall either proceed to acquire the land concerned under the Land Acquisition Act, 1894, or transfer the claim for disposal to an officer exercising the powers of a Collector under the said Act:

Provided that in case the Chief Commissioner decides to acquire the land, the claimant shall be entitled to be repaid by the acquiring authority the amount of expense which he may have properly incurred in connection with the preparation and submission of his claim for compensation under this section, and in default of agreement such amount shall be determined by the authority deciding the value of the land in the proceedings under the Land Acquisition Act, 1894.

(4) Nothing in this section shall be deemed to preclude the settlement of a claim by mutual agreement.

9. Compulsory acquisition.—If the Chief Commissioner decides to acquire the land under the Land Acquisition Act, 1894, then, notwithstanding anything contained in that Act—

(i) Proceedings under section 5A of that Act shall not be required;

(ii) the notification under section 6 of that Act shall be published within six months from the date of institution of the claim, failing which the claim shall be transferred for disposal to an officer exercising the powers of a Collector under that Act;

(iii) the market value of the land shall be assessed as though no declaration under section 3 (1) had been made in respect of the area in which it is situated and no restrictions upon its use and development had been imposed, any compensation already paid to the claimant or to any of his predecessors in interest for injurious affection being deducted from the market value as so assessed.

10. Amount of compensation how determined.—(1) When a claim is transferred for disposal under section 8 or section 9 to an officer exercising the powers of a Collector under the Land Acquisition Act, 1894, such officer shall make an award determining the amount of compensation, if any, payable to the claimant.

(2) The amount of compensation awarded under sub-section (1) shall in no case exceed—

(a) the amount that would have been payable if the land had been acquired under section 9 or

(b) the difference between the market value of the land in its existing condition having regard to the restrictions actually imposed upon its use and development by the order refusing permission to erect or re-erect a building thereon, and its market value immediately before the publication under sub-section (2) of section 3 of the notification in pursuance of which the area in which it is situated was declared to be a controlled area, and no compensation shall be awarded under sub-section (1)—

(i) unless the claimant satisfies the officer making the award that proposals or the development of the land which at the date of the application under sub-section (1) of section 6 are immediately practicable, or would have been so, if this Act had not been passed, are prevented or injuriously affected by the restrictions imposed under this Act; or

(ii) if and in so far as the land is subject to substantially similar restrictions in force under some other enactment which were so in force at the date when the restrictions were imposed under this Act; or

(iii) if compensation in respect of the same restrictions in force under this Act or of substantially similar restrictions in force under some other enactment has already been paid in respect of the land to the claimant or to any predecessor in interest of the claimant.

(3) The provisions of Parts III, IV, V and VIII of the Land Acquisition Act, 1894, shall so far as may be apply to an award made under sub-section (1) as though it were an award made under that Act.

11. Saving for other enactments.—Nothing in this Act shall affect the power of any authority to acquire land or to impose restrictions upon the use and development of land under any other enactment for the time being in force.

12. Prohibition of use of any land as a brick-field, etc., without a licence.—(1) No land within a controlled area shall be used for the purposes of a charcoal-kiln, pottery-kiln or lime-kiln and no land either within

or outside a controlled area shall be used for the purposes of a brick-field or brick-kiln except under, and in accordance with the conditions of, a licence from the Chief Commissioner which shall be renewable annually.

(2) The Chief Commissioner may charge such fees for the grant and renewal of such licences and may impose such conditions in respect thereof as may be prescribed.

(3) No person shall be entitled to claim compensation under this or any other Act for any injury, damage or loss caused or alleged to have been caused by the refusal of a licence under sub-section (1).

13. Offences and penalties.—(1) Any person who—

(a) erects or re-erects any building or makes or extends any excavation or lays out any means of access to a road in contravention of the provisions of section 5 or in contravention of any conditions imposed by an order under section 6 or section 7, or.

(b) uses any land in contravention of the provisions of sub-section (1) of section 12, shall be punishable with fine which may extend to five hundred rupees and, in the case of a continuing contravention, with a further fine which may extend to fifty rupees for every day after the date of the first conviction during which he is proved to have persisted in the contravention.

(2) Without prejudice to the provisions of sub-section (1), the Deputy Commissioner may order any person who has committed a breach of the provisions of the said sub-section to restore to its original state or to bring into conformity with the conditions which have been violated, as the case may be, any building or land in respect of which a contravention such as is described in the said sub-section has been committed and if such person fails to do so within three months of the order may himself take such measures as may appear to him to be necessary to give effect to the order, and the cost of such measures shall be recoverable from such person as an arrear of land-revenue.

14. Trial of offences.—No Court inferior to that of a Magistrate of the first class shall try any offence punishable under this Act.

15. Protection of persons acting under this Act.—No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

16. Savings.—Nothing in this Act shall apply to—

(a) the erection or re-erection of buildings upon land included in the inhabited site of any village as defined in the revenue records;

(b) the erection or re-erection of a place of worship or a tomb or cenotaph or of a wall enclosing a graveyard, place of worship, cenotaph or *Samadhi* on land which is at the time a notification under sub-section (2) of section 3 is published by the Chief Commissioner occupied by or for the purposes of such place of worship, tomb, *Samadhi*, cenotaph or graveyard;

(c) excavations (including wells) made in the ordinary course of agricultural operations;

(d) the construction of an unmetalled road intended to give access to land solely for agricultural purposes.

17. Power to make rules.—(1) The Chief Commissioner may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely —

(a) the form in which applications under sub-section (1) of section 6 shall be made and the information to be furnished in such applications;

(b) the regulation of the laying out of means of access to roads;

(c) the fees to be charged for the grant and renewal of licences under section 12 and the conditions governing such licences.

(3) All rules made under this section shall be subject to the condition of previous publication, which publication shall be made in the official Gazette and in at least two newspapers printed in a language other than English; and the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897, shall not be less than two months from the date on which the draft of the proposed rules was published.

The Insurance (Amendment) Act, 1941.

Received the assent of the Governor General on the 8th April 1941 and is published in the "Gazette of India", Part IV, dated the 12th April 1941.

Act No. XIII of 1941.

An Act further to amend the Insurance Act, 1938.

WHEREAS it is expedient further to amend the Insurance Act, 1938, for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Insurance (Amendment) Act, 1941.

Notes.

Object.—"The object of this Bill is to amend the Insurance Act of 1938 in respect of (a) a considerable number of matters in regard to which amendment is necessary in order to remove flaws and administrative difficulties which have come to light during the eighteen months for which the Act has been in operation, and (b) some other matters in respect of which further provision is considered desirable.

2. Some of the more pressing amendments have already been dealt with in previous Amending Bills. The remainder are now included in this comprehensive Bill.

3. The principal amendments included in this Bill provide for (a) grant of permission to the public to inspect or get copies on payment of a fee of documents filed by insurers; (b) imposing on those types of business, which though classed as 'Miscellaneous Insurance' are susceptible in some degree of actuarial valuation, actuarial requirements as similar as may be to those to which Life Insurance business is already subject; (c) extension of the time for the submission of valuation returns under section 15 in all cases to 9 months; (d) fixation of a time limit of 3 months within which appeals to Court must be made against the orders of the Superintendent of Insurance; (e) extension of the power to order a revaluation under section 22 to all valuations of insurers; (f) recovery of the expenses of investigations ordered under section 33 as arrears of land-revenue; (g) allowing the age of the insured to be proved at any time after the issue of a policy; (h) clarification of section 48 relating to the election of policy-holders' directors; (i) protection of the interests of the policy-holders concerned when an insurer or a provident society ceases to carry on insurance business on the dividing principle; (j) co-ordination of the provisions applicable to insurers and those applicable to provident societies; (k) extension of the principle of a guaranteed surrender value to whole-life policies also, (l) removal of a legal difficulty which prevents defining which of the particular transactions

of an insurer are to be considered as transacted in British India or India, as the case may be; (m) extension of the power of granting reciprocal exemptions under section 116 to provident societies also; (n) an amendment of section 7 so as to allow the Reserve Bank to charge their normal commission on the sale of, or investment in, securities which they are required to sell or invest under that section on the request of an insurer.

4. The Bill also provides for an annual fee for renewal of registration of insurers and provident societies and for an increase of the fee charged for agents' licences. These provisions are necessary in order to increase the realisations under the Act so as to cover the present direct cost of administration.

5. In addition to the above points several defects of a technical nature are also dealt with. [Vide Statement of Objects and Reasons, printed at page 197 of the *Gazette of India*, Extraordinary, 1941.]

2. *Amendment of section 2, Act IV of 1938.*—In section 2 of the Insurance Act, 1938 (hereinafter referred to as the said Act),—

(a) in clause (5), for the words "an insurer" the words "an insurer or a provident society as defined in Part III", and for the words "the insurer" the words "such insurer or provident society" shall be substituted;

(b) in clause (9), for the words "to which the provisions of Part III apply" the words "as defined in Part III" shall be substituted.

Notes.

The amendment in sub-clause (a) rectifies an omission while the amendment in sub-clause (b) substitutes a more apt expression.

3. *Amendment of section 3 Act IV of 1938.*—In section 3 of the said Act,—

(a) in the proviso to sub-section (1), for the words, brackets and figures "the expiry of one month from the commencement of the Insurance (Amendment) Act, 1940" the words "such date as may be fixed in this behalf by the Central Government by notification in the official Gazette" shall be substituted;

(b) in clause (g) of sub-section (2), for the word "one" the word "five" shall be substituted;

(c) in sub-section (4), to clause (d) the word "or" shall be added, and after clause (d) the following clause and words shall be added, namely:—

"(e) if, in the case of an insurer specified in sub-clause (c) of clause (9) of section 2, the standing contract referred to in that sub-clause is cancelled or is suspended and continues to be suspended for a period of six months, and the Superintendent of Insurance may cancel the registration of an insurer if the insurer has failed to have the registration renewed";

(d) in sub-section (5), after the words, brackets, letter and figure "clause (a) of sub-section (4)" the words, brackets, letter and figure "clause (e) of sub-section (4), or because the insurer has failed to have the registration renewed" shall be inserted;

(e) in sub-section (5C), after the word, brackets and figure "sub-section (4)" the words, brackets, letter and figure "clause (e) of sub-section (4), or because the insurer has failed to have his registration renewed" and after the word and figures "section 98" the words, brackets, figures and letter "or has his standing contract restored or has had an application under sub-section (4) of section 3A accepted" shall be inserted.

Notes.

Sub-clause (a) removes doubts about the validity of policy-contracts entered into after the expiry of the period of three months

mentioned in section 3(1) by certain insurers who failed to obtain a certification of registration even by the 10th May 1940. The object is to secure that the policy-holders do not suffer while the insurers can be dealt with, where necessary, under sub-sections (5B) and (5D) of section 3. Sub-clause (b) increases the registration fee for each class of business to Rs. 500 for new insurers, while sub-clauses (c), (d) and (e) supply provisions covering the consequences of failure to renew registration, including provisions for revival of registration in some cases and for the winding up of the insurers in others.

4. *Insertion of new section 3A in Act IV of 1938.*—After section 3 of the said Act the following section shall be inserted, namely:—

“3A. *Renewal of Registration.*—(1) An insurer who has been granted a certificate of registration under section 3 shall have the registration renewed annually for each year after that ending on the 31st day of December, 1941.

(2) An application for the renewal of a registration for any year shall be made by the insurer to the Superintendent of Insurance before the 31st day of December of the preceding year, and shall be accompanied as provided in sub-section (3) by evidence of payment of the prescribed fee which shall not exceed one thousand rupees for each class of insurance business, but may vary according to the volume of business done by the insurer in India in each class of insurance business to which the registration relates.

(3) The prescribed fee for the renewal of a registration for any year shall be paid into the Reserve Bank of India, or, where there is no office of that Bank, into the Imperial Bank of India acting as the agent of that Bank, or into any Government treasury, and the receipt shall be sent along with the application for renewal of the registration.

(4) If an insurer fails to apply for renewal of registration before the date specified in sub-section (2) the Superintendent of Insurance may, so long as an application to the Court under sub-section (5D) of section 3 has not been made, accept an application for renewal of the registration on receipt from the insurer of the fee payable with the application and such penalty, not exceeding the prescribed fee payable by him, as the Superintendent of Insurance may require:

Provided that an appeal shall lie to the Central Government from an order passed by the Superintendent of Insurance imposing a penalty on the insurer.

(5) The Superintendent of Insurance shall, on fulfilment by the insurer of the requirements of this section, renew the registration and grant him a certificate of renewal of registration”.

Notes.

The insertion of the new section provides for the annual registration of insurers on payment of a prescribed fee on a sliding scale, but not exceeding Rs. 1,000 for each class of business, and also for late applications for renewal.

5. *Amendment of section 4, Act IV of 1938.*—In section 4 of the said Act,—

(a) in sub-section (1), for the words “a provident society” to which Part III” the words “a provident society as defined in Part III shall be substituted;

(b) for sub-section (2) the following sub-section shall be substituted; name-

ly:—

"(2) Nothing contained in this section shall apply to any policy of the description known as a group policy, where the number of persons covered by the policy is not less than fifty or such smaller number as may be approved by the Superintendent of Insurance and a standard form of the policy has been certified in writing by the Superintendent of Insurance to be a policy of such description".

Notes.

Sub-clause (a) substitutes a more apt expression and sub-clause (b) removes doubts as to what is a group policy.

6. Amendment of section 5, Act IV of 1938.—In sub-section (3) of section 5 of the said Act, for the words "to which Part III applies" the words "as defined in Part III" shall be substituted.

7. Amendment of section 7, Act IV of 1938.—In sub-section (9A) of section 7 of the said Act, after clause (b) the following words shall be added, namely:—

"and may charge the normal commission on such sale or on such investment".

Notes.

The addition makes clear that the Reserve Bank of India is entitled to charge the normal commission on purchase and sale of securities made on the request of insurers.

8. Amendment of section 10, Act IV of 1938.—In section 10 of the said Act,—

(a) to sub-section (1) the following words, brackets and letters shall be added, namely:—

"and where the insurer carries on business of the class specified in clause (d) of that sub-section whether alone or in conjunction with business of another class, he shall, unless the Superintendent of Insurance waives this requirement in writing, keep a separate account of all receipts and payments in respect of each such sub-class of the class specified in clause (d) as may be prescribed in this behalf.

Provided that no sub-class of the class of insurance business specified in clause (d) of sub-section (1) of section 7 shall be prescribed under this sub-section if the insurance business comprised in the sub-class consists of insurance contracts which are terminable by the insurer at intervals not exceeding twelve months and under which, if a claim arises, the insurer's liability to pay benefit ceases within one year of the date on which the claim arose."

(b) in sub-section (2), for the words "the excess of receipts over payments in respect of such business" the following words shall be substituted, namely:—

"all receipts due in respect of such business";

(c) in sub-section (3), the words and figures "save as provided in section 49" shall be omitted, and for the words "other than those of life insurance" the words "other than those of the life insurance business of the insurer" shall be substituted.

Notes.

The amendment in sub-clause (a) enables the Central Government to provide for the keeping of a separate account of such sub-classes of miscellaneous insurance business as are capable of actuarial valuation, except where the Superintendent of Insurance considers the business is too small for that requirement. Sub-clauses (b) and (c) rectify minor verbal inaccuracies.

9. Amendment of section 11, Act IV of 1938.—In section 11 of the said Act,—

(a) in clause (a) of sub-section (1),—

(i) for the words "in respect of each class of insurance business carried on by him" the words, brackets and figures "in respect of each class or sub-class of insurance business for which he is required under sub-section (1) of section 10 to keep a separate account of receipts and payments" shall be substituted; and

(ii) for the words "that class of insurance business" the words "that class or sub-class of insurance business" shall be substituted;

(b) in sub-section (2), for the words and figures "to which the Indian Companies Act, 1913, applies" the following shall be substituted, namely:—

"as defined in clause (2) of sub-section (1) of section 2 of the Indian Companies Act, 1913."

Notes.

The amendments in sub-clause (a) are consequential to sub-clause (a) of section 8. Sub-clause (b) removes an ambiguity.

10. Amendment of section 13, Act IV of 1938.—To section 13 of the said Act the following sub-section shall be added, namely:—

"(6) The provisions of this section relating to life insurance business shall apply also to any such sub-class of insurance business included in the class 'Miscellaneous Insurance' as may be prescribed under sub-section (1) of section 10; and the Superintendent of Insurance may authorise such modifications and variations of the regulations contained in Part I of the Fourth and Fifth Schedules and of the requirements of Part II of those Schedules as may be necessary to facilitate their application to any such sub-class of insurance business:

Provided that, if the Superintendent of Insurance is satisfied that the number and amount of the transactions carried out by an insurer in any such sub-class of insurance business is so small as to render periodic investigation and valuation unnecessary, he may exempt that insurer from the operation of this sub-section in respect of that sub-class of insurance business."

Notes.

The addition provides for the actuarial valuation of those sub-classes of miscellaneous insurance which are susceptible of such valuation and also for exemption where the business is too small to justify such a requirement.

11. Amendment of section 15, Act IV of 1938—In sub-section (1) of section 15 of the said Act,—

(i) for the words "within six months" the words and figures "in the case of the accounts and statements referred to in section 11 within six months and in the case of the abstract and statement referred to in section 13 within nine months" shall be substituted;

(b) the sentence beginning with the words "The Superintendent of Insurance may extend" and ending with the words "by a period not exceeding three months" shall be omitted.

Notes.

The amendments extend the time for submission of valuation returns by insurers.

12. Amendment of section 16, Act IV of 1938.—In sub-section (2) of section 16 of the said Act,—

(a) to clause (a) the words "as at the date of any balance-sheet so furnished" shall be added;

(b) in clause (b);—

(i) for the words "for each class of insurance business carried on by him, a revenue account" the following words, brackets and figures shall be substituted, namely:—

"for each class or sub-class of insurance business for which he is required under sub-section (1) of section 10 to keep a separate account of receipts and payments, a revenue account for the period covered by any account so furnished";

(ii) for the words "that class of business" the words "that class or sub-class of insurance business" shall be substituted;

(c) for clause (c) the following clause shall be substituted, namely:—

"(c) a separate abstract of the valuation report in respect of all business transacted in India in each class or sub-class of insurance business to which section 13 refers, prepared in the manner required by that section, and".

Notes.

Sub-clause (a) supplies a drafting omission. Sub-clauses (b) and (c) extend the provisions of section 16 to the sub-classes of miscellaneous insurance for which provision is made by the amendment in section 10 (1) by sub-clause (a) of section 8 and also rectify some drafting omissions.

13. Amendment of section 17, Act IV of 1938.—In section 17 of the said Act, after the words "and such copies so sent" the words "shall be chargeable with the same fees and" shall be inserted.

Notes.

The insertion removes an existing doubt whether filing fees under the Indian Companies Act, 1913, are payable where advantage is taken of the provisions of section 17 of the Insurance Act.

14. Amendment of section 21, Act IV of 1938.—To sub-section (2) of section 21 of the said Act the following proviso shall be added, namely:—

"Provided that no application under this sub-section shall be entertained unless it is made before the expiration of four months from the time when the Superintendent of Insurance made the order or declined to accept the return"

Notes.

The addition provides a period of limitation of 4 months for an application to Court against an order of the Superintendent of Insurance.

15. Amendment of section 22, Act IV of 1938.—In section 22 of the said Act, after the word "refers" the following shall be inserted, namely:—

"or an abstract of a valuation report furnished under clause (c) of sub-section (2) of section 16".

Notes.

The insertion extends the powers of the Superintendent of Insurance to all valuations of insurers.

16. Omission of section 24, Act IV of 1938.—Section 24 of the said Act shall be omitted.

Notes.

The section referred to deals with the publication of summaries of the returns of insurers and provident societies. The latter are dealt with

in a separate part of the Act, and the section is accordingly omitted here and is re-introduced in Part V in a clearer form.

17. Amendment of section 26, Act IV of 1938.—To section 26 of the said Act the following sentence shall be added, namely:—

“All such particulars shall be authenticated in the manner required by that sub-section for the authentication of the matters therein referred to, and where the alteration affects the assured rates, advantages, terms and conditions offered in connection with life insurance policies, the actuarial certificate referred to in clause (f) of the said sub-section shall accompany the particulars of the alteration.”

Notes.

The addition makes it clear that the alterations have also to be authenticated and certified in the same manner as the originals.

18. Amendment of section 28, Act IV of 1938.—In section 28 of the said Act,—

(a) for sub-section (1) the following sub-sections shall be substituted, namely,—

“(1) Every insurer registered under this Act carrying on the business of life insurance shall every year, within thirty-one days from the beginning of the year, submit to the Superintendent of Insurance a statement showing as at the 31st day of December of the preceding year the assets held invested in accordance with section 27, and all other particulars necessary to establish that the requirements of that section have been complied with, and such statement shall be certified by a principal officer of the insurer.

(2) Every such insurer shall also furnish, within fifteen days from the last day of March, June and September, a statement certified as aforesaid showing as at the end of each of the said months the assets held invested in accordance with section 27.

(3) The Superintendent of Insurance may at his discretion require any insurer to whom sub-section (1) applies to submit before the 1st day of August in each or any year a statement of the nature referred to in sub-section (1), certified as required by that sub-section and prepared as at the 30th day of June.

(4) In the case of an insurer having his principal place of business or domicile outside British India, the Superintendent of Insurance may, on application made by the insurer, extend the periods of fifteen and thirty-one days mentioned in the foregoing sub-sections to thirty days and sixty days, respectively.”

(b) sub-section (2) shall be re-numbered as sub-section (5).

Notes.

The amendments are designed to release insurers from the necessity of furnishing the detailed particulars necessary to establish that they have complied with section 27 twice in the year provided that they supply quarterly particulars of assets held invested by them under that section but permits the Superintendent of Insurance to call for the detailed particulars twice a year wherever necessary.

19. Amendment of section 29, Act IV of 1938.—Section 29 of the said Act shall be re-numbered as sub-section (1) of that section and to the section as so re-numbered the following sub-section shall be added, namely:—

“(2) The provisions of section 86D of the Indian Companies Act,

1913, shall not apply to a loan granted to a director of an insurer being a company, if the loan is one granted on the security of a policy on which the insurer bears the risk and the policy was issued to the director on his own life, and the loan is within the surrender value of the policy."

20. Amendment of section 33, Act IV of 1938.—In section 33 of the said Act—

(a) in sub-section (1), for the words beginning with "appoint an auditor or actuary or both" and ending with "himself make such investigation" the following shall be substituted, namely :—

"order an investigation of the affairs of the insurer to be made by an auditor or actuary, or by both an auditor and an actuary appointed simultaneously, or first by an auditor only or an actuary only and afterwards by an actuary or auditor, or may himself make such investigation :

Provided that an auditor or actuary appointed for this purpose by the Superintendent of Insurance shall not be an auditor or actuary in the employ of the insurer.":

(b) to sub-section (2) the following proviso shall be added, namely :—

"Provided that no application under this sub-section shall be entertained unless it is made before the expiration of three months from the date on which the Superintendent of Insurance intimates to the insurer his intention to take such action.":

(b) for sub-section (3) the following sub-section shall be substituted, namely :—

"(3) The results of any investigation made under this section shall be recorded in writing by the auditor or actuary appointed or by the Superintendent of Insurance, as the case may be, and four copies of the record shall be supplied to the Superintendent of Insurance; and when the investigation is completed a copy of such record, or where both an auditor and an actuary have been appointed, of each such record, shall be furnished by the Superintendent of Insurance to the insurer and to the shareholders or the policy-holders who have sent a requisition for such an investigation."

21. Amendment of section 34, Act IV of 1938.—In section 34 of the said Act—

(a) after the words "incidental to such investigation" the words, brackets and figures "including any expenses incurred before the making of an order by the Court under sub-section (2) of section 33" shall be inserted, and shall be deemed always to have been inserted; and

(b) to the section the following words shall be added and shall be deemed always to have been added, namely :—

"shall have priority over other debts due from the insurer, and shall be recoverable as an arrear of land-revenue".

22. Amendment of section 35, Act IV of 1938.—In sub-section (3) of section 35 of the said Act,

(a) for the words "and certified copies of the following documents shall be furnished to the Central Government, and shall" the following words shall be substituted, namely :—

"and certified copies, four in number, of each of the following documents shall be furnished to the Central Government, and other such copies shall";

(b) in the proviso, after the words and figures "sections 11 and 13" the following shall be inserted and shall be deemed always to have been inserted, namely :—

"of this Act or sections 7 and 8 of the Indian Life Assurance Companies Act, 1912".

23. Amendment of section 36, Act IV of 1938.—To section 36 of the said Act the following proviso shall be added, namely :—

"Provided that—

(a) no part of the deposit made by any party to the amalgamation or transfer shall be returned except where, after effect is given to the arrangement, the whole of the deposit to be made by the insurer carrying on the amalgamated business or the person to whom the business is transferred is completed,

(b) only so much shall be returned as is no longer required to complete the deposit last mentioned in clause (a), and

(c) while the deposit last mentioned in clause (a) remains uncompleted, no accession, resulting from the arrangement, to the amount already deposited by the insurer carrying on the amalgamated business or the person to whom the business is transferred shall be appropriated as payment or part payment of any instalment of deposit subsequently due from him under section 7 or section 98."

24. Amendment of section 37, Act IV of 1938.—In section 37 of the said Act,—

(a) for the words "where any business of one insurer is transferred to another" the words "where any business of an insurer is transferred" shall be substituted ;

(b) for the words "the insurer to whom the business is transferred" the words "the person to whom the business is transferred" shall be substituted ;

(c) for the words "furnish to the Central Government" the words "furnish in duplicate to the Central Government" shall be substituted ;

(d) in clause (b), for the words "a declaration signed by every insurer concerned" the words "a declaration signed by every party concerned" shall be substituted ;

(e) for clause (c) the following clause shall be substituted, namely :—

"(c) where the amalgamation or transfer has not been made in accordance with a scheme sanctioned by the Court under section 36—

(i) balance-sheets in respect of the insurance business of each of the insurers concerned in such amalgamation or transfer, prepared in the Form set forth in Part II of the First Schedule and in accordance with the regulations contained in Part I of that Schedule, and

(ii) certified copies of any other reports on which the scheme of amalgamation or transfer was founded."

25. Amendment of section 38, Act IV of 1938.—In sub-section (2) of section 38 of the said Act, for the words "together with" the word "and" and for the words "has been delivered" the words "have been delivered" shall be substituted.

26. Amendment of section 39, Act IV of 1938.—In section 39 of the said Act,—

(a) in sub-section (1), the words "not being an absolute assignee of the benefits under the policy" shall be omitted ;

(b) to sub-section (4) the following proviso shall be added, namely :—

"Provided that the assignment of a policy to the insurer who bears

the risk on the policy at the time of the assignment, in consideration of a loan granted by that insurer on the security of the policy within its surrender value, or its re-assignment on repayment of the loan shall not cancel a nomination, but shall affect the rights of the nominee only to the extent of the insurer's interest in the policy."

27. Amendment of section 41, Act IV of 1938.—In section 41 of the said Act,—

(a) in sub-section (1),—

(i) for the words "effect or renew" the words "take out or renew or continue" shall be substituted, and after the word "renewing" the words "or continuing" shall be inserted;

(ii) the following proviso shall be added :—

"Provided that acceptance by an insurance agent of commission in connection with a policy of life insurance taken out by himself on his own life shall not be deemed to be acceptance of a rebate of premium within the meaning of this sub-section if at the time of such acceptance the insurance agent satisfies the prescribed conditions establishing that he is a *bona fide* insurance agent employed by the insurer."

(b) in sub-section (2), for the words "effecting or renewing" the words "taking out or renewing or continuing" shall be substituted.

28. Amendment of section 42, Act IV of 1938.—In section 42 of the said Act,—

(a) in sub-section (1), for the words "one rupee" the words "three rupees" and for the words "making an application under this section" the words "making an application in the prescribed manner" shall be substituted;

(b) in sub-section (3), for the words "a fee of one rupee" the following words shall be substituted, namely :—

"the prescribed fee which shall not be more than three rupees, and an additional fee of a prescribed amount not exceeding one rupee by way of penalty if the application for renewal of the licence does not reach the issuing authority before the date on which the licence ceases to remain in force";

(c) in sub-section (4),—

(i) in clause (a)—

(a) after the words "cheating" the following words shall be inserted, namely :—

"or forgery or an abetment of or attempt to commit any such offence";

(b) the following proviso shall be added, namely :—

"Provided that, where at least five years have elapsed since the completion of the sentence imposed on any person in respect of any such offence, the Superintendent of Insurance shall ordinarily declare in respect of such person that his conviction shall cease to operate as a disqualification under this clause";

(ii) in clause (d), for the words "against an insurer or an assured" the words "against an insurer or an insured" shall be substituted;

(d) after sub-section (5) the following sub-section shall be added, namely :—

"(6) The authority which issued any licence under this section may issue a duplicate licence to replace a licence lost, destroyed or mutilated on payment of the prescribed fee which shall not be more than one rupee."

29. Amendment of section 43, Act IV of 1938.—In sub-section (1) of section 43 of the said Act the word "licensed", in both places where it occurs, shall be omitted.

30. Amendment of section 44, Act IV of 1938.—In section 44 of the said Act the words and figures "licensed under section 42" shall be omitted.

31. Amendment of section 45, Act IV of 1938.—In section 45 of the said Act,—

(a) for the words "was on a material matter and fraudulently made" the words "was on a material matter or suppressed facts which it was material to disclose and that it was fraudulently made" shall be substituted, and after the words "that the statement was false" the words "or that it suppressed facts which it was material to disclose" shall be added ;

(b) the following proviso shall be added, namely :—

"Provided that nothing in this section shall prevent the insurer from calling for proof of age at any time if he is entitled to do so, and no policy shall be deemed to be called in question merely because the terms of the policy are adjusted on subsequent proof that the age of the life insured was incorrectly stated in the proposal."

32. Amendment of section 47, Act IV of 1938.—In sub-section (1) of section 47 of the said Act, for the words "the insurer shall" the words "the insurer may" shall be substituted.

33. Amendment of section 48 Act IV of 1938.—In section 48 of the said Act,—

(a) in sub-section (1), for the words beginning with "shall be persons having the prescribed qualifications" and ending with "by the holders of policies of life insurance issued by the company" the following words shall be substituted, namely :—

"shall notwithstanding anything to the contrary in the Articles of Association of the company be elected in the prescribed manner by the holders of policies of life insurance issued by the company";

(b) sub-section (2) shall be re-numbered as sub-section (4) and the following shall be inserted as sub sections (2) and (3), namely :—

"(2) Only and all persons holding otherwise than as assignees policies of life insurance issued by the company of such minimum amount and having been in force for such minimum period as may be prescribed shall be eligible for election as directors under sub-section (1), and only and all persons holding policies of life insurance issued by the company and having been in force at the time of the election for not less than six months shall be eligible to vote at such elections :

Provided that the assignment of a policy to the person who took out the policy shall not disqualify that person for being eligible for election as a director under sub-section (1).

(3) The Central Government may, for such period, or to such extent and subject to such conditions as may be specified by it in this behalf, exempt from the operation of this section—

(a) any Mutual Insurance Company as defined in clause (a) of sub-section (1) of section 95, in respect of which the Superintendent of Insurance certifies that in his opinion owing to the conditions governing membership of the company or to the nature of the insurance contracts undertaken by it the application of the provisions of this sub-section to the company is impracticable, or

(b) any company in respect of which the Superintendent of Insurance certifies that in his opinion the company, having taken all reasonable steps to achieve compliance with the provisions of this section, has been unable to obtain the required number of directors with the required qualifications."

Notes.

The amendment in sub-section (a) makes it clear that a company cannot interfere with the manner prescribed for the election of policy-holder directors. The first insertion in sub-section (b) enables all policy-holders entitled to vote or stand for election to exercise their rights and prevents any "watering" of the list of voters or candidates, while the second insertion provides for suitable exemptions in certain cases which are found in practice to give rise to practical difficulties.

34. Substitution of new section for section 49, Act IV of 1938.—For section 49 of the said Act the following section shall be substituted, namely:—

"49. *Restriction on dividends and bonuses.*—No insurer, being an insurer specified in sub-clause (a) (ii) or sub-clause (b) of clause (9) of section 2, who carries on the business of life insurance or any other class or sub-class of insurance business to which section 13 applies, shall, for the purpose of declaring or paying any dividend to shareholders or any bonus to policy-holders or of making any payment in service of any debentures, utilize directly or indirectly any portion of the life insurance fund or of the fund of such other class or sub-class of insurance business, as the case may be, except a surplus shown in the valuation balance-sheet in Form I as set forth in the Fourth Schedule submitted to the Superintendent of Insurance as part of the abstract referred to in section 15 as a result of an actuarial valuation of the assets and liabilities of the insurer; nor shall he increase such surplus by contributions out of any reserve fund or otherwise unless such contributions have been brought in as revenue through the revenue account applicable to that class or sub-class of insurance business on or before the date of the valuation aforesaid, except when the reserve fund is made up solely of transfers from similar surpluses disclosed by valuations in respect of which returns have been submitted to the Superintendent of Insurance under section 15 of this Act or to the Central Government under section 11 of the Indian Life Assurance Companies Act, 1912:

Provided that payments made out of any such surplus in service of any debentures shall not exceed fifty per cent. of such surplus including any payment by way of interest on the debentures, and interest paid on the debentures shall not exceed ten per cent. of any such surplus except when the interest paid on the debentures is offset against the interest credited to the fund or funds concerned in deciding the interest basis adopted in the valuation disclosing the aforesaid surplus."

Notes.

The substitution specifies more clearly than at present the circumstances under which dividends and bonuses may be paid and the circumstances under which and the limit within which debentures may be serviced.

35. Amendment of section 50, Act IV of 1938.—To section 50 of the said Act the following words shall be added, namely:—

"unless these are set forth in the policy".

Notes.

The addition provides for dispensing with notice by an insurer in a case where it is obviously unnecessary.

36. Amendment of section 52, Act IV of 1938.—Section 52 of the said Act shall be re-numbered as sub-section (1) of that section and to the section as so re-numbered the following sub-sections shall be added, namely:—

(2) On the expiry of the period of three years referred to in sub-section (1), or on the insurer's ceasing before such expiry but at any time after the commencement of the Insurance (Amendment) Act, 1941, to carry on business on the dividing principle, the insurer shall forthwith cause an investigation to be made by an actuary, who shall determine the amount accumulated out of the contributions received from the holders of all policies to which the dividing principle applies and the extent of the claims of those policy-holders against the realisable assets of the insurer, and shall, before the expiration of six months from the date on which he is entrusted with the investigation, make recommendations regarding the distribution, whether by cash payments or by the allocation of paid up policies or by a combination of both methods, of such assets as he finds to appertain to such policy-holders; and the insurer shall, before the expiry of six months from the date on which the actuary makes his recommendations, distribute such assets in accordance with those recommendations.

(3) Where at any time prior to the commencement of the Insurance (Amendment) Act, 1941, an insurer has ceased to carry on business on the dividing principle, the insurer shall, before the expiration of two months from the commencement of that Act, report to the Superintendent of Insurance the measures taken or proposed by him for the distribution among holders of policies to which the dividing principle applies of the assets due to them; and the Superintendent of Insurance may either sanction such measures or refuse his sanction, and, if he refuses his sanction or if the insurer does not report to him as required by this sub-section, the provisions of sub-section (2) shall apply to the insurer forthwith."

Notes.

The additions provide for equitable winding-up of all insurance business on the dividing principle, when such business becomes unlawful after 1st July, 1942, except in cases where the Superintendent of Insurance sanctions the measures for winding up already taken.

37. Amendment of section 53, Act IV of 1938.—In section 53 of the said Act,—

(a) in sub-section (1), for the word "Chapter" the word "Act" shall be substituted;

(b) in sub-clause (ii) of clause (b) of sub-section (2), after the words "has continued such failure" the words "or having contravened any provision of this Act has continued such contravention" and after the words "notice of such failure" the words "or contravention" shall be inserted.

Notes.

The amendment in sub-section (a) adjusts a drafting flaw. The amendments in sub-clause (b) supply an omission.

38. Amendment of section 69, Act IV of 1938.—In section 69 of the said Act,—

(a) in sub-section (1), for the words "the results of a distribution, amongst policies maturing for payment within certain time-limits, of certain sums" the following words shall be substituted, namely:—

"the results of a distribution of certain sums amongst policies becoming claims within certain time-limits, or on the principle that the premiums

payable by a policy-holder depend wholly or partly on the number of policies becoming claims within certain time limits";

(b) after sub-section (2) the following sub-section shall be added, namely :—

"(3) Where after the commencement of the Insurance (Amendment) Act, 1941, a provident society is to be wound up in pursuance of this section, or where, whether before or after the commencement of that Act, a provident society ceases to carry on business on the dividing principle, the provisions of sub-section (2) and sub-section (3) of section 52 shall, so far as may be, apply in like manner as they apply to an insurer ceasing to carry on business on the dividing principle."

Notes.

The amendment in sub-section (a) brings the definition of "business on the dividing principle" in respect of provident societies into line with the definition of the same business in respect of insurers. The addition in sub-section (b) provides in the case of provident societies for equitable winding-up of insurance business on the dividing principle on the same lines as those laid down in the case of insurers.

39. Amendment of section 70, Act IV of 1938.—In section 70 of the said Act,—

(a) in sub-section (2),—

(i) in clause (a), after the words and figures "Indian Companies Act, 1913," the words and figures "or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby", shall be inserted ;

(ii) to clause (b) the following words shall be added, namely :—

"the full address of the registered office of the society, the full address of the principal office of the society in British India, the name of the manager at such office, and the name and address of some one or more persons resident in British India authorised to accept any notices required to be served on the society";

(iii) the word "and" at the end of clause (c) shall be omitted and after clause (d) the following word and clause shall be added, namely :—

"and

(e) the prescribed fee for registration being not more than two hundred rupees.";

(b) in sub-section (4),—

(i) in clause (c), after the word "requirement" the words "or having contravened any provision" and after the word "failure" in both places where it occurs, the words "or contravention" shall be inserted ;

(ii) after the proviso the following proviso shall be added, namely :—

"Provided further that the Superintendent of Insurance may, without previous notice and without application to the Court for sanction,—

(a) cancel the registration of a provident society which has failed to have its registration renewed, or

(b) cancel, on such terms and conditions as he thinks fit, the registration of any provident society which applies to him for such cancellation if he is satisfied that the society has ceased to carry on insurance business and that all its liabilities in respect of insurance policies are either satisfied or otherwise provided for ;"

(c) after sub-section (4) the following sub-sections shall be added, namely :—

"(5) When a registration is cancelled the provident society shall not, after the cancellation has taken effect, enter into any new contracts of insurance, but all rights and liabilities in respect of contracts of insurance entered into by it before such cancellation takes effect shall, subject to the provisions of section 88, continue as if the cancellation had not taken place.

(6) Where a registration is cancelled under clause (b) of sub-section (4), or because the society has failed to have its registration renewed, the Superintendent of Insurance may, at his discretion, revive the registration if the provident society, within six months from the date on which the cancellation took effect, makes the deposits required by section 73 or has had an application under sub-section (3) of section 70 accepted, as the case may be, and complies with any directions which may be given to it by the Superintendent of Insurance."

Notes.

The first amendment in sub-section (a) supplies an omission while the second amendment clarifies the position regarding provident societies established outside British India, and the third amendment provides for a registration fee of 200 rupees for new provident societies. The first amendment in sub-section (b) supplies two omissions while the second amendment provides for the cancellation of registration without formal notice to the society or an application to the Court in certain necessary cases. Sub-section (c) makes detailed provision for the consequences of a cancellation of registration, including provision for the revival of registration in some cases.

40. *Insertion of new sections 70A and 70B in Act IV of 1938.*—After section 70 of the said Act the following sections shall be inserted, namely:—

"70A. *Renewal of registration.*—(1) Every provident society registered under this Act, or under the Provident Insurance Societies Act, 1912, shall have its registration renewed annually for each period of twelve months after that ending on the 30th day of June, 1942."

(2) An application for the renewal of a registration shall be made by the society to the Superintendent of Insurance before the 30th day of June preceding the period for which renewal is sought, and shall be accompanied as provided in sub-section (3) by evidence of payment of the prescribed fee which shall not exceed two hundred rupees but may vary according to the volume of insurance business done by the society.

(3) The prescribed fee for the renewal of a registration for any year shall be paid into the Reserve Bank of India, or, where there is no office of that Bank, into the Imperial Bank of India acting as the agent of that Bank, or into any Government treasury, and the receipt shall be sent along with the application for renewal of the registration.

(4) If a provident society fails to apply for renewal of registration before the date specified in sub-section (2) the Superintendent of Insurance may, so long as he has taken no action under section 83 to have the society wound up, accept an application for renewal of registration, on receipt from the society of the fee payable with the application and such penalty, not exceeding the prescribed fee payable by the society, as he may require.

(5) The Superintendent of Insurance shall, on being satisfied that the society has fulfilled the requirements of this section, renew the registration and grant it a certificate of renewal of registration,

70B. Supplementary information and reports of alterations in particulars furnished with application for registration.—(1) Every provident society registered under section 70 before the commencement of the Insurance (Amendment) Act, 1941, shall, before the expiration of three months from the commencement of the Insurance (Amendment) Act, 1941, furnish to the Superintendent of Insurance such particulars in addition to those already supplied for the purpose of obtaining registration as are required by sub-section (2) of section 70 of this Act as amended by the Insurance (Amendment) Act, 1941.

(2) Every provident society registered under the provisions of the Provident Insurance Societies Act, 1912, shall, before the expiration of three months from the commencement of the Insurance (Amendment) Act, 1941, furnish to the Superintendent of Insurance so far as it has not already done so the documents and information required by clauses (a) and (b) of sub-section (2) of section 70 to accompany an application by a provident society for registration under that section.

(3) When any alteration occurs or is made, which affects any of the matters which are required under the provisions of sub-section (2) of section 70 to accompany an application by a provident society for registration under that section, or are to be furnished to the Superintendent of Insurance under this section, the provident society shall furnish forthwith to the Superintendent of Insurance full particulars duly authenticated of such alteration.

Notes

The first section inserted by this section provides for annual renewal of registration of provident societies on the same lines as section 4 does for insurers. The second section inserted by this section requires full particulars as to address, directors, persons in charge, etc., to be supplied by provident societies already registered and provides for maintaining a correct record of such particulars.

41. Amendment of section 72, Act IV of 1938.—In section 72 of the said Act, the words "established after the commencement of this Act" shall be omitted.

Notes.

The amendment eliminates a lacuna.

42. Amendment of section 74, Act IV of 1938.—In sub-section (1) of section 74 of the said Act,—

(a) the words "established after the commencement of this Act" shall be omitted;

(b) in clause (a), after the words and figures "Indian Companies Act, 1913," the words and figures "or under the Indian Companies Act 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby," shall be inserted.

Notes.

The amendment in sub-section (a) eliminates a lacuna while the insertion in sub-section (b) supplies an omission.

43. Amendment of section 77, Act IV of 1938.—In section 77 of the said Act, for the words "shall have an office" the words "shall have in British India a principal office" shall be substituted.

Notes.

The amendment makes it clear that a provident society, whether established in British India or outside British India, must have a principal office in British India.

44. Amendment of section 79, Act IV of 1938.—In section 79 of the said Act,—

(a) for the words "shall keep at its registered office" the words "shall keep at its principal office in British India" shall be substituted;

(b) for clauses (a) to (p) the following clause shall be substituted, namely:—

"(q) such registers in such form as may be prescribed ;";

(c) clauses (e), (f) and (g) shall be re-lettered, respectively, as clauses (b), (c) and (d).

Notes.

The amendment in sub-section (a) is consequential on the amendment in section 43. The amendment in sub-section (b) enables the forms of registers to be prescribed in the rules at great length and with sufficient flexibility to suit the needs of different types of provident societies. Sub-section (c) is consequential.

45. Amendment of section 82, Act IV of 1938.—In section 82 of the said Act,—

(a) in sub-section (1), for the words "and the statements referred to" the words "shall be printed and four copies of these and of the statements referred to" and for the words "within three months" the words "within six months" shall be substituted;

(b) in sub-section (3), before the words "The provisions of section 17" the following shall be inserted, namely:—

"The provisions of sub-section (2) of section 15 relating to the copies therein referred to shall apply to the returns referred to in sub-section (1) of this sub-section, and",
and to the sub-section as so amended the following shall be added, namely:—

"and the Superintendent of Insurance may exercise, in respect of returns made by a provident society and in respect of an investigation or valuation to which section 81 refers, the same powers as are exercisable by him under section 21 and section 22, respectively, in the case of an insurer".

Notes.

The first amendment in sub-section (a) provides for the submission in printed form of certain returns of provident societies while the second amendment gives the societies a needed extension of time for submission of their returns. The insertion and the addition in sub-section (b) bring the provisions applicable to the returns of provident societies into line with those applicable to the returns of insurers.

46. Amendment of section 83, Act IV of 1938.—In section 83 of the said Act,—

(a) in sub-section (1), for the word "established" the word "registered," for the words "shall cause any new scheme which it proposes to put into operation" the words "shall cause any scheme which it proposes to put into operation for the first time" and for the words "that the scheme is sound" the words "that the rates, advantages, terms and conditions of the scheme are workable and sound" shall be substituted;

(b) in sub-section (3), for the words "and shall send the report of the actuary" the words, brackets and figures "and shall, before the expiration of six months from the commencement of the Insurance (Amendment) Act, 1941, send the report of the actuary" shall be substituted;

(c) in sub-section (4), for the words "it is actuarially sound" the words "the rates, advantages, terms and conditions are workable and sound" shall be substituted ;

(d) for sub-section (5) the following sub-section shall be substituted, namely :—

"(5) If the rates, advantages, terms and conditions of any scheme are not reported by the actuary to be workable and sound, the Superintendent of Insurance shall give notice to the society prohibiting the scheme, and the society shall not after its receipt of such notice enter into any new contract of insurance under the scheme, but all rights and liabilities in respect of contracts of insurance entered into by the society before receipt of the notice shall, subject to the provisions of sub-section (6), continue as if the notice had not been given."

(e) in sub-section (6), for the word "discontinued" in both places where it occurs, the word "prohibited" and for the word "discontinuance" the word "prohibition" shall be substituted.

Notes.

The amendments in sub-sections (a) and (c) remove ambiguities. The amendment in sub-section (b) fixes a date before which actuarial reports on schemes in operation on 1st July 1939 must be submitted. The amendment in sub-section (d) clarifies the position of policy-holders under a prohibited scheme and sub-section (e) substitutes more apt words.

47. Amendment of section 85, Act IV of 1938.—In section 85 of the said Act,—

(a) in sub-section (1), for the words "invest all surplus assets in such securities" the following words shall be substituted, namely :—

"invest in such securities every increase that takes place in those assets and in that part of those assets which is held in cash as soon as practicable after the increase takes place and in any case within six months of its taking place,"

and to the sub-section as so amended the following proviso shall be added, namely :—

"Provided that for the purpose of determining the amount to be invested under this sub-section, any deposit made in cash under section 73 shall be taken into account as if such cash were Government securities amounting at the market value of the securities on the date the deposit was made to the total deposited in cash."

(b) after sub-section (4) the following sub-section shall be added, namely :—

"(5) The provisions of section 86D of the Indian Companies Act, 1913, shall not apply to a loan granted to a director of a provident society being a company if the loan is one granted on the security of a policy on which the society bears the risk and the policy was issued to the director on his own life and the loan is within the surrender value of the policy."

Notes.

Sub-section (a) removes ambiguities about the investments that must be made by provident societies and also provides that cash held in deposit may be taken into account as if it was invested.

48 Amendment of section 87, Act IV of 1938.—In section 87 of the said Act,—

(a) in sub-section (1), after the words "the principal office of a provident society" the words "or the principal office in British India of a

society having its principal place of business or domicile outside British India" shall be inserted; and to the sub-section as so amended the following words shall be added, namely :—

"or by both an auditor and an actuary appointed simultaneously, or first by an auditor only or an actuary only and afterwards by an actuary or auditor";

(b) for sub-section (3) the following sub-section shall be substituted, namely :—

"(3) The results of any such inquiry shall be recorded in writing by the person making the inquiry, and four copies of the record shall be supplied to the Superintendent of Insurance; and when the inquiry is completed, a copy of the record, or of each such record where more than one are made in the course of the same inquiry, shall be sent by the Superintendent of Insurance to the society concerned and shall be open to inspection by any member or policy-holder of the society.";

(c) after sub-section (3), as so substituted, the following sub-section shall be added, namely :—

"(4) All expenses of and incidental to any inquiry made by an auditor or actuary under sub-section (1) including any expenses incurred before the date on which the Superintendent of Insurance receives notice of an appeal under clause (a) of sub-section (1) of section 110 shall be defrayed by the provident society, shall have priority over other debts due from the society, and shall be recoverable as an arrear of land-revenue."

Notes.

The first amendment in sub-section (a) adds the 'necessary' reference to the case of a provident society established outside British India. The second amendment in sub-section (a) and the amendments in sub-sections (b) and (c) bring the provisions applicable to investigations into the affairs of provident societies into line with similar provisions applicable to insurers.

49. Amendment of section 88, Act IV of 1938.—In section 88 of the said Act, —

(a) in sub-sections (1), (3) and (4), after the words and figures "Indian Companies Act, 1913," the words and figures "or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby" shall be inserted;

(b) in sub-sections (1) and (3), for the words "that Act" the words and figures "the Indian Companies Act, 1913" shall be substituted."

Notes.

Sub-section (a) supplies an omission and the amendment in sub-section (b) is consequential.

50. Amendment of section 90, Act IV of 1938.—In section 90 of the said Act, —

(a) to sub-section (1) the following proviso shall be added, namely :—

"Provided that if the Superintendent of Insurance is not satisfied that the assets of the society are sufficient to meet the costs of liquidation including the remuneration of the liquidator, he may decline to make such appointment, and in such a case the society shall itself appoint a liquidator who shall carry out the liquidation as if the winding up was being done by an order of the Court.";

(b) in sub-section (2), for the words "so appointed" the words "appointed by the Superintendent of Insurance under sub-section (1)" shall be substituted.

Notes.

The addition in sub-section (a) saves the Superintendent of Insurance from unnecessarily incurring expenses out of public revenues in the liquidation of provident societies. Sub-section (b) removes an ambiguity.

51. Amendment of section 91, Act IV of 1938.—In clause (a) of sub-section (1) of section 91 of the said Act, after the word "liquidation" the following shall be inserted, namely :—

"including the remuneration of the liquidator and any expenses incurred under clause (g) of this sub-section".

52. Amendment of section 92, Act IV of 1938.—To section 92 of the said Act the following sub-section shall be added, namely :—

"(13) The costs of the liquidation including the remuneration of the liquidator and any expenses incurred under clause (g) of sub-section (1) of section 91 shall, if the liquidator decides that they shall be payable out of the assets of the society, be payable in priority to all other claims."

Notes.

Section 52 provides that the costs of liquidation of a provident society shall have priority over other debts when they are held to be payable out of the assets of the society.

53. Amendment of section 98, Act IV of 1938.—In section 98 of the said Act,—

(a) in sub-section (2), for the words "of twenty-five thousand rupees" the words "of not less than twenty-five thousand rupees" for the words "to twenty-five thousand rupees", the words "to not less than twenty five thousand rupees", and for the words "equal to one-third of the gross premium" the words "equal to not less than one-third of the gross premium" shall be substituted, and shall be deemed always to have been substituted ;

(b) after sub-section (2), the following sub-section shall be added, and shall be deemed always to have been added, namely :—

"(3) The provisions of sub-section (7) of section 7 shall apply in respect of a Mutual Insurance Company and a Co-operative Life Insurance Society as if for the words "under the foregoing provisions of this section" the words and figures "under the provisions of section 98" were substituted

Notes.

Sub-section (a) supplies verbal omissions which have given rise to practical difficulties and sub-section (b) extends the existing provisions relating to the disposal of deposits held immediately prior to 1st July 1939 to 'Mutual' and 'Co-operative' insurers also.

54. Amendment of section 100, Act IV of 1938.—In the proviso to section 100 of the said Act, the words "balance-sheet, revenue account and" shall be omitted and to the proviso as so amended the following words shall be added, namely :—

"and any member of the company domiciled in that province shall be entitled on application to the company to receive from it a copy of the balance-sheet and revenue account"

Notes.

Section 54 saves 'mutual' insurers the duty and expense of sending copies of accounts to all their members as a matter of course but gives every member the right to receive a copy of the accounts on application.

55. Amendment of section 102, Act IV of 1938.—In sub-section (2) of section 102 of the said Act, for the words "any provident society which makes default in complying with any of the requirements of Part

III" the words "any provident society as defined in Part III which makes default in complying with or acts in contravention of any of the requirements of this Act" shall be substituted and after the word "default", in the second, third and fourth places where it occurs, the words "or contravention" shall be inserted.

Notes.

Section 55 supplies some verbal omissions and substitutes a more apt expression.

56. Amendment of section 103, Act IV of 1938.—In section 103 of the said Act,—

(a) in sub-section (1), for the word "transacts" the words "carries on" shall be substituted, the words and figures "section 6" and "section 97" shall be omitted, and for the word "transacted" the words "carried on" shall be substituted;

(b) in the proviso to sub-section (2), for the words "this section" the words, brackets and figures "sub-section (1) or sub-section (2)" shall be substituted;

(c) after sub-section (2) the following sub-section shall be added, namely:—

"(3) Any provident society or any person acting on behalf of a provident society who carries on any class of insurance business in contravention of any of the provisions of section 70, section 73 or section 83 or does any one or more of the acts constituting the business of insurance in relation to any insurance business carried on in contravention of any of the said sections shall be punishable with fine which may extend to one thousand rupees."

Notes.

Sub-sections (a) and (b) rectify verbal defects and sub-clause (c) makes provisions similar to those applicable to insurers applicable to provident societies also.

57. Amendment of section 105, Act IV of 1938.—Section 105 of the said Act shall be re-numbered as sub-section (1) of that section and to the section as so re-numbered the following sub-section shall be added, namely:—

"(2) This section shall apply in respect of a provident society as defined in Part III as it applies in respect of an insurer."

Notes.

Section 57 makes the existing provision of section 105 referring to insurers applicable to provident societies also.

58. Amendment of section 106, Act IV of 1938.—(1) Section 106 of the said Act shall be re-numbered as sub-section (1) of that section.

(2) In the section as so re-numbered, after the words "If on the application of" the words "the Superintendent of Insurance or" shall be inserted and to the section as so amended the following sub-section shall be added, namely:—

"(2) This section shall apply in respect of a provident society as defined in Part III as it applies in respect of an insurer."

Notes

Section 58 enables an application to court under section 106 to be made also by the Superintendent of Insurance, and makes the section applicable to provident societies as well as to insurers.

59. Amendment of section 107, Act IV of 1938.—Section 107 of the said Act shall be re-numbered as sub-section (1) of that section and to the section as so re-numbered the following sub-section shall be added, namely :—

"(2) This section shall apply in respect of a provident society as defined in Part III as it applies in respect of an insurer."

Notes:

Section 59 makes the existing provisions of section 107 referring to insurers applicable to provident societies also.

60. Amendment of section 110, Act IV of 1938.—In section 110 of the said Act, after sub-section (3) the following sub-section shall be added, namely :—

"(4) No appeal under this section shall be entertained unless it is made before the expiration of four months from the date on which the order appealed against was communicated to the appellant."

Notes.

The addition provides a period of limitation of 4 months for appeals under section 110.

61. Amendment of section 113, Act IV of 1938.—In section 113 of the said Act,—

(a) for sub-sections (1) and (2) the following sub-sections shall be substituted, namely :—

"(1) A policy of life insurance under which the whole of the benefits become payable either on the occurrence, or at a fixed interval or fixed intervals after the occurrence, of a contingency which is bound to happen, shall, if all premiums have been paid for at least three consecutive years in the case of a policy issued by an insurer, or five years in the case of a policy issued by a provident society as defined in Part III, acquire a guaranteed surrender value, to which shall be added the surrender value of any subsisting bonus already attached to the policy, and every such policy issued by an insurer shall show the guaranteed surrender value of the policy at the close of each year after the second year of its currency or at the close of each period of three years throughout the currency of the policy :

Provided that the requirements of this sub-section as to the addition of the surrender value of the bonus attaching to a policy at surrender shall be deemed to have been complied with where the method of calculation of the guaranteed surrender value of the policy makes provision for the surrender value of the bonus attaching to the policy :

Provided further that the requirements of this sub-section as to the showing of the guaranteed surrender value on a policy shall be deemed to have been complied with where the insurer shows on the policy the guaranteed surrender value of the policy by means of a formula accepted in this behalf by the Superintendent of Insurance as satisfying the said requirements :

Provided further that the provisions of this sub-section as to the showing of the guaranteed surrender value on a policy shall not take effect until after the expiry of six months from such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

(2) Notwithstanding any contract to the contrary, a policy which has acquired a surrender value shall not lapse by reason of the non-payment of further premiums but shall be kept alive to the extent of the paid-up

sum insured, and the paid-up sum insured shall for the purposes of this sub-section include in full all subsisting reversionary bonuses that have already attached to the policy, and shall, where the policy is one on which the maximum number of annual premiums payable is fixed and the premiums are of uniform amount, be before the inclusion of such bonuses not less than the amount bearing to the total sum insured by the policy exclusive of bonuses the same proportion as the total period for which premiums have already been paid bears to the maximum period for which premiums were originally payable.

(3) A policy kept alive to the extent of the paid-up sum insured under sub-section (2) shall not be entitled by virtue of that sub-section to participate in any profits declared distributable after the conversion of the policy into a paid-up policy.”;

(b) sub-section (3) shall be re-numbered as sub-section (4) and in that sub-section as so re-numbered,—

(i) for the words “This section shall not apply to” the following shall be substituted, namely :—

“Sub-section (2) and sub-section (3) shall not apply”;

(ii) clause (a) shall be omitted ;

(iii) for clause (b) the following clause shall be substituted, namely :—

“(a) where the paid up sum insured by a policy, being a policy issued by an insurer, is less than one hundred rupees inclusive of any attached bonus, or takes the form of an annuity of less than twenty-five rupees, or where the paid up sum insured by a policy, being a policy issued by a provident society as defined in Part III, is less than fifty rupees inclusive of any attached bonus or takes the form of an annuity of less than twenty-five rupees, or”;

(iv) clauses (c) and (d) shall be re-lettered as clauses (b) and (c), respectively.

Notes.

Sub-section (a) recasts and clarifies sub-sections (1) and (2) of section 113, at the same time extending the existing right of a guaranteed surrender value to holders of whole-life policies also. It is also made clear that the provisions apply to holders of policies issued by provident societies and not merely those issued by insurers. Provision is made for the guaranteed surrender value to be shown on the policy in the prescribed manner. Sub-section (b) is mainly consequential.

62. Amendment of section 114, Act IV of 1938.—In sub-section (2) of section 114 of the said Act,—

(a) for clause (b) the following clause shall be substituted, namely :—

“(b) the manner in which it shall be determined which of the transactions of an insurer are to be deemed for the purposes of this Act to be insurance business transacted in India or in British India, as the case may be ;”;

(b) in clause (g), after the words “may be” the words “applied for,” shall be inserted.

Notes.

The amendment in sub-section (a) removes an obscurity of wording which had caused some practical difficulty. Sub-section (b) supplies an omission.

63. Amendment of section 116, Act IV of 1938.—Section 116 of the said Act shall be re-numbered as sub-section (1) of that section and to

the section as so re-numbered the following sub-section shall be added, namely :—

"(2). This section shall apply in respect of provident societies as defined in Part III as it applies in respect of insurers."

Notes.

This section makes section 116 applicable also to provident societies.

64. Insertion of new section 116A in Act IV of 1938.—After section 116 of the said Act the following section shall be inserted, namely :—

"116A. *Summary of returns to be published.*—The Central Government shall every year cause to be published, in such manner as it may direct, a summary of the accounts, balance-sheets, statements, abstracts and other returns under this Act or purporting to be under this Act which have been furnished in pursuance of the provisions of this Act to the Superintendent of Insurance during the year preceding the year of publication, and may append to such summary any note of the Superintendent of Insurance or of the Central Government and any correspondence."

Provided that nothing in this section shall require the publication of the statements referred to in sub-section (1) of section 28."

Notes.

The new section inserted is consequential on section 16. It reproduces section 24 in clearer form and provides that the voluminous returns under section 28 need not be published.

65. Amendment of section 117, Act IV of 1938.—In section 117 of the said Act, after the words "being a company" the words "or a provident society as defined in Part III being a company" shall be inserted.

Notes.

The insertion extends the provisions of section 117 to provident societies.

66. Amendment of section 118, Act IV of 1938.—In section 118 of the said Act, after the words "and to such extent" the words "or subject to such conditions or modifications" shall be inserted.

Notes.

The amendment enables the Superintendent of Insurance when granting exemption under section 118 to impose conditions or to make suitable modifications of the provisions still left operative.

67. Substitution of new section for section 119, Act IV of 1938.—For section 119 of the said Act the following section shall be substituted, namely :—

"119. *Inspection and supply of copies of published prospectus, etc.*—Any person may on payment of a fee of five rupees inspect the documents filed by an insurer with the Superintendent of Insurance under clause (f) of sub-section (2) of section 3, and may obtain a copy of any such document or part thereof on payment in advance at the prescribed rate for the making of the copy."

Notes.

The existing section 119 being redundant when read with section 3 (2) (f) is repealed and in its place a new provision is inserted providing that the public may inspect or obtain copies of documents filed under section 3 (2) (f).

68. Insertion of new section 122, in Act IV of 1938.—After section 121 of the said Act the following section shall be inserted, namely :—

"122. *Amendment of Schedule I, Act IX of 1908.*—In Item No. 86 in the First Schedule to the Indian Limitation Act, 1908,—

(a) for the entry in the first column the following shall be substituted, namely :—

(a) On a policy of insurance when the sum insured is payable after proof of the death has been given to or received by the insurers.

(b) On a policy of insurance when the sum insured is payable after proof of the loss has been given to or received by the insurers.;

(b) for the entry in the third column, the following shall be substituted, namely :—

(a) The date of the death of the deceased.

(b) The date of the occurrence causing the loss."

Notes.

This section amends the Indian Limitation Act to provide that the period of limitation shall run in the case of a life policy from the date of death of the life insured instead of from the date when proof of such death is given. The policies affected are no longer described as those under which the sum insured is paid *immediately* after proof of the death.

69. Amendment of First Schedule, Act IV of 1938.—In Form A contained in Part II of the First Schedule to the said Act,—

(a) in the first column, after the entry "Miscellaneous Insurance Business Account" the brackets and letter "(m)" shall be added;

(b) in the fifth column, after the entry "Outstanding Premiums (g)" the brackets and letter "(d)" shall be added, and

(c) after foot-note (i) the following shall be added, namely :—

"(m) Where the insurer is required to maintain a separate account in respect of any sub-class of miscellaneous insurance business this heading is to be split up accordingly"

Notes.

Sub-sections (a) and (c) are consequential on sub-section (a) of section 8. Sub-section (b) supplies an omission.

70. Amendment of Third Schedule, Act IV of 1938.—In the Third Schedule to the said Act,—

(a) in regulation 1 contained in Part I, after the words "for every class" the words "or sub-class" shall be inserted;

(b) in regulation 2,—

(i) after the words "miscellaneous insurance" the words "exclusive of any sub-class of such business in respect of which the insurer is required to maintain a separate account" shall be inserted; and

(ii) the following sentence shall be added, namely :—

"For a sub-class of miscellaneous insurance in respect of which the insurer is required to maintain a separate account, Form D or Form F as set out in Part II of this Schedule may be used with such modifications as the Superintendent of Insurance may authorise."

(c) in Form D contained in Part II,—

(i) in the first column the entry "Commission to insurance agents (less that on Re-insurances)" shall be omitted; and for the entry "1. Allowances and Commission (other than commission to insurance agents)" the following entry shall be substituted, namely :—

"1. (a) Commission to insurance agents (less that on Re-insurances).

(b) Allowances and Commission (other than commission included in sub-item (a) preceding)";

(ii) in the first column, after the entry "5. Auditors' fees" the entry "6. Medical fees" shall be inserted, and the existing entries numbered 6 to 12 shall be re-numbered 7 to 13, respectively;

(iii) all the horizontal lines appearing in the columns and the letters "Rs." against the entries "Interest, Dividends and Rents" and "Less—Income-tax thereon (d)" shall be omitted, and horizontal lines under which the totals of the columns are to be inserted shall be added at the foot of each column :

(iv) in note (a) the words "In the case of an insurer having his head office in British India" shall be omitted.

Notes.

Sub-sections (a) and (b) are consequential on sub-section (a) of section 8. In sub-section (c) the first three amendments rectify verbal defects while the last one makes the explanation of the terms "Business within India" and "Business out of India" applicable in the case of all insurers.

71. Amendment of Fourth Schedule, Act IV of 1938.—In Part II of the Fourth Schedule to the said Act,—

(a) in the opening paragraph beginning with the words "The following tabular statements"—

(i) in clause (d), for the semi-colon and the word "and" at the end of the clause the following shall be substituted, namely :—

"for the intervaluation period (except that it shall not be necessary to prepare such statement in respect of any class of business so long as the insurer deposits annually with the Superintendent of Insurance an abstract in respect of that class of business)";

(ii) clause (e) shall be omitted;

(b) in sub-paragraph (2) of the paragraph numbered 8, for the words "as at the valuation date" the words "as a result of this valuation" shall be substituted;

(c) in the paragraph numbered 9, between the word "fourth" and the word "sixth" the word "fifth" shall be inserted.

(d) for Form G the form contained in the Schedule to this Act shall be substituted;

(e) in Form J, for the heading to the first column "Number of premiums paid" the following heading shall be substituted, namely :—

"Number of annual premiums paid up to the valuation date"

and the following note shall be added after the existing note, namely :—

"NOTE.—The reserve value is to be based on the rate of office premium payable by an insured who entered at the age shown and who had, by the valuation date, paid the number of annual premiums shown in the first column."

Notes.

The first amendment in sub-section (a) and the amendments in sub-sections (b) and (c) remove verbal defects and the second amendment in sub-section (a) abolishes a requirement which is unnecessary in connection with valuation returns. Sub-section (d) substitutes a new Form G for the existing Form G in the Fourth Schedule to the Act making it consistent with Form D which is submitted annually with the same information. Sub-section (e) makes clear how Form J is to be prepared.

SCHEDULE.

[See section 71(d).]

Form to be substituted for Form G in the Fourth Schedule of the Insurance Act, 1938.

FORM G.

Consolidated Revenue Account of _____ for _____ years commencing _____ and ending _____.

	Business within India. (a)	Total.		Business within India. (a)	Total.
	Rs.	Rs.		Rs.	Rs.
Claims, under Policies, (including provision for claims due (or intimated), less Re-insurances—			Balance of Life Insurance Fund at the beginning of the period.		
By death			Premiums, less Re-insurances—		
By maturity			(i) First year premiums.		
Annuities, less Re-insurances.			(ii) Renewal premiums.		
Surrenders (including surrenders of Bonus), less Re-insurances.			(iii) Single premium.		
Bonuses in cash, less Re-insurances.			Consideration for Annuities granted, less Re-insurances		
Bonuses in Reduction of Premiums, less Re-insurances.			(a)		
Expenses of Management (b), (c)—			Interest, Dividends and Rents Rs.		
1. (a) Commission to insurance agents (less that on Re-insurances).			Less—Income-tax thereof (d) Rs.		
(b) Allowances and Commission [other than commission included in sub-item (a) preceding].			Registration fees.		
2. Salaries, etc. [other than to agents and those contained in sub-item 1 (b) preceding].			Other Income (to be specified).		
3. Travelling expenses.			Loss transferred to Profit and Loss Account.		
4. Directors' fees.			Transferred from Appropriation Account.		
5. Auditors' fees.					

FORM G—Contd.

	Business within India. (a)	Total.		Business within India. (a)	Total.
	Rs.	Rs.		Rs.	Rs.
6. Medical fees ...					
7. Law charges ..					
8. Advertisements					
9. Printing and Stationery ..					
10. Other expenses of management (accounts to be specified).					
11. Other payments (accounts to be specified).					
12. Rent for offices belonging to and occupied by the insurer.					
13. Rents of other offices occupied by the insurer.					
Bad debts					
United Kingdom					
British Indian					
Dominion and Foreign Taxes.					
Other Expenditure (to be specified).					
Profit transferred to Profit and Loss Account.					
Balance of Life Insurance Fund at end of the period as shown in the Balance-sheet.					
Rs.			Rs.		

NOTES.

(a) These columns apply to all business except business the premiums in respect of which are ordinarily paid outside India. If any question arises whether any premiums are ordinarily paid inside or outside India, the Superintendent of Insurance shall decide the question and his decision shall be final.

(b) If any sum has been deducted from this item and entered on the assets side of the balance-sheet, the amount so deducted must be shown separately.

(c) All single premiums for annuities, whether immediate or deferred, must be included under this heading.

(d) British Indian, United Kingdom, Foreign and Dominion income-tax on Interest, Dividends and Rents must be shown under this heading, less any rebates of income-tax recovered from the revenue authorities in respect of expenses of management. The separate heading on the other side of the account is for United Kingdom, British Indian, Foreign and Dominion taxes, other than those shown under this item.

(e) In the case of an insurer having his principal place of business outside British India the expenses of management for the total business need not be split up into the several sub-heads, if they are not so split up in his own country.

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Published in the "*Gazette of India*", Extraordinary, dated the 14th December 1940.

LEGISLATIVE DEPARTMENT.

New Delhi, the 14th December 1940.

The Coffee Market Expansion Ordinance, 1940.

Ordinance No. XIII of 1940.

An ordinance to provide for assistance to the coffee industry by regulating the export of coffee from and the sale of coffee in British India and by other means.

WHEREAS an emergency has arisen which makes it necessary to provide for assistance to the coffee industry by regulating the export of coffee from and the sale of coffee in British India and by other means ;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935, the Governor General is pleased to make and promulgate the following Ordinance :—

1. Short title, extent, commencement and duration.—(1) This Ordinance may be called the Coffee Market Expansion Ordinance, 1940.

(2) It extends to the whole of British India.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

(4) It shall not remain in force after the 31st day of August, 1941.

3. Declaration as to expediency of Central Government's control.—

It is hereby declared that it is expedient in the public interest that the Central Government should take under its control the development of the coffee industry.

3. In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) "the Board" means the Indian Coffee Market Expansion Board constituted under section 4 ;

(b) "coffee" means the commodity derived from the fruit of the rubiaceous plant known by that name, and includes raw coffee, cured coffee and uncured coffee ;

(c) "Collector" means a Customs-collector as defined in clause (c) of section 3 of the Sea Customs Act, 1878, or a Collector of Land Customs as defined in clause (c) of section 2 of the Land Customs Act, 1924, as the case may be ;

(d) "curing" means the application to raw coffee of mechanical processes other than pulping for the purpose of preparing it for marketing ;

(e) "curing establishment" means any place to which raw coffee is sent by a registered owner for curing, and includes any estate which the Board may declare to be a curing establishment for the purposes of this Ordinance ;

(f) "estate" means an area administered as one unit which contains land planted with coffee plants ;

(g) "Indian Coffee Cess Committee" means the Indian Coffee Cess Committee constituted under the Indian Coffee Cess Act, 1935 ;

(h) "internal sale quota" means that portion, stated in terms of bulk or weight, of the whole of the coffee produced by the estate in the year, which a registered estate is permitted under this Ordinance to sell in the Indian market ;

(i) "owner" includes any agent of an owner ;

(j) "prescribed" means prescribed by rules made under this Ordinance ;

(k) "registered estate" means an estate in respect of which an owner is registered under sub-section (1) of section 14, and includes also any estate in respect of which an owner is required to be registered under the provisions of that sub-section ;

(l) "registered owner" means an owner of a registered estate who has been or is required to be registered under sub-section (1) of section 14 ;

(m) "surplus pool" means the stock of coffee accumulated by the Board out of the amounts delivered to the Board under section 25 ;

(n) "year" means the period of twelve months beginning on the 1st day of July, 1940, and ending on the 30th day of June 1941:

Provided that the Central Government may, by notification in the official Gazette, declare that the year for the purposes of any section of this Ordinance which may be specified in the notification shall be the fourteen months ending on the 31st day of August, 1941.

The Indian Coffee Market Expansion Board and the Controller of Coffee.

4. *Constitution of the Board.*—(1) The Central Government shall constitute a Board to be called the Indian Coffee Market Expansion Board consisting of the existing members of the Indian Coffee Cess Committee and three other persons nominated by the Central Government to represent such interests as may be prescribed in this behalf.

(2) The Central Government shall publish in the official Gazette the names of members of the Board.

(3) No act done by the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in, the constitution of the Board.

5. *Incorporation of the Board*—The Board shall be a body corporate by the name of the Indian Coffee Market Expansion Board, having perpetual succession and a common seal, with power to acquire and hold property, both moveable and immoveable, and to contract, and shall by the said name sue and be sued.

6. *Vesting of property in the Board.*—So long as this Ordinance remains in force all property, moveable, or immoveable, of or belonging to the Indian Coffee Cess Committee shall vest in the Board and all debts and liabilities of the said Committee shall be transferred to the Board, and the officers and servants of the said Committee shall be officers and servants on the staff of the Board and the said Committee shall be suspended.

7. *Chairman, committees, staff and agents.*—(1) The chairman of the Indian Coffee Cess Committee shall be the chairman of the Board.

(2) The Board may appoint such committees for such purposes and may employ such staff as it thinks necessary for the efficient discharge of its functions under this Ordinance.

(3) The Board may authorise agents to discharge on its behalf its functions in relation to the marketing, storing and curing of coffee.

8. *Controller of Coffee.*—(1) The Central Government shall appoint an officer, to be called the Controller of Coffee, to exercise such powers and perform such duties under the direction of the Board as may be prescribed by the Central Government.

(2) Unless the Central Government otherwise directs, the Controller of Coffee shall be a member of a civil service of the Crown in India.

(3) The Controller of Coffee shall while serving as such be paid by the Board such salary and allowances as may be fixed by the Central Government.

9. *Power of Board to make bye-laws.*—The Board may, with the previous sanction of the Central Government, make bye-laws consistent with this Ordinance and the rules made thereunder to provide for all or any of the following matters, namely :—

(a) the procedure to be followed at meetings of the Board and at committees ;

(b) the powers exercisable and the duties to be discharged by the chairman of the Board and the members of the staff of the Board ;

(c) the travelling or other allowances which may be drawn by members of the Board ;

(d) the appointment, promotion and dismissal of members of the staff of the Board, the creation and abolition or such appointments, and the terms of service of members of the staff of the Board ;

(e) any other matter in respect of which bye-laws may be made under this Ordinance or the rules made thereunder.

10. *Dissolution of the Board.*—When the Board is dissolved by reason of this Ordinance having ceased to be in force, the unexpended balance of all money received by the Board under this Ordinance except money in the pool fund shall be disposed of in such manner as the Central Government may direct. The Central Government shall disburse the money in the pool fund in the same manner as the Board would have done had it continued to exist.

Duties of Customs and of Excise.

11. *Duty of customs.*—A duty of customs shall be levied on all coffee produced in India and exported from British India at the rate of one rupee per hundredweight or at such lower rate as the Central Government may, on the recommendation of the Board, by notification in the official Gazette provide.

12. *Duty of Excise.*—A duty of excise shall be levied at such rate not exceeding one rupee per hundredweight as may be fixed by the Central Government on the recommendation of the Board by notification in the official Gazette on all coffee, except coffee sold and delivered before the commencement of this Ordinance, which a registered estate is permitted by the internal sale quota allotted to it to sell in the Indian market, whether such coffee is actually sold or not, and on all coffee released for sale in India by the Board from the surplus pool.

13. *Payment of proceeds of duties to the Board and manner of realisation by the Board.*—(1) The proceeds of the duty of customs levied under section 11 and of the duty of excise levied under section 12 shall be paid to the Board for credit to the general fund of the Board.

(2) On the last day of each month, or as soon thereafter as may be convenient, the Collector shall pay to the Board the proceeds of the duty of customs recovered during that month after deduction of the expenses, if any, for collection and recovery.

(3) The Central Board of Revenue may make rules providing, on such conditions as may be specified in the rules, for—

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(a) the refund of the duty of customs where coffee is exported by land and subsequently imported into India, and

(b) the export by land, without payment of the duty of customs, of coffee which is subsequently to be imported into India.

(4) The duty of excise on coffee shall be payable by the registered owner of the estate producing the coffee and shall be realised by the Board by the deduction of the amount of the duty payable by such owner from any sum due to him on account of sales from the surplus pool. It shall be a first charge on such sum, and shall, if not capable of realisation by deduction as aforesaid, be paid to the Board by the registered owner within one month of demand by the Board or thereafter be recoverable from him as an arrear of land-revenue.

(5) The Board shall have power to adjudge by bulk the number of hundredweights contained in any quantity of uncurred coffee.

(6) No action of the Board under this section shall be called in question by any Court.

Registration.

14. Registration of owners of coffee estates.—(1) Every person owning land planted with coffee plants aggregating not less than twenty-five acres, whether such land is comprised in one estate or in more than one estate and whether it is situated wholly or only partly in British India, shall, before the expiration of one month from the commencement of this Ordinance, or before the expiration of one month from the date on which after the commencement of this Ordinance he first becomes subject to the provisions of this sub-section, apply to the registering officer appointed in this behalf by the Provincial Government to be registered as an owner and in respect of each estate owned by him.

(2) A registration once made shall continue in force until it is cancelled by the registering officer.

(3) If any question arises whether an owner of an estate is or is not required to be registered under this section, the question shall be decided by the Controller of Coffee, subject to revision by the Central Government.

15. Power of Provincial Government to make rules.—(1) The Provincial Government may, by notification in the official Gazette, make rules to carry into effect the provisions of section 14.

(2) Without prejudice to the generality of the foregoing power, such rules may prescribe the form of the application for registration and for cancellation of registration, the fee payable on such applications, the particulars to be included in such applications, the procedure to be followed in granting and cancelling registration, the registers to be kept by registering officers, and the supply by registering officers of information to the Board.

Control of sale, Export and Re-import of Coffee.

16. Maximum prices for sale of coffee wholesale.—(1) The Central Government may, after consultation with the Board, by notification in the official Gazette fix the maximum price or prices at which coffee may be sold wholesale in the Indian market.

(2) No registered owner or licensed curer shall sell coffee wholesale in the Indian market at a price exceeding the maximum fixed under this section.

17. Sale of coffee in excess of internal sale quota.—No registered owner shall, after the commencement of this Ordinance, sell or contract to sell in the Indian market coffee from any registered estate if by such sale the internal sale quota allotted to that estate is exceeded :

Provided that nothing in this section shall apply to coffee sold from a registered estate in excess of the internal sale quota if such sale was in pursuance of a contract of sale entered into before the 3rd day of December, 1940, and if after the commencement of this Ordinance no coffee has been sold from that estate in the Indian market except in pursuance of a contract of sale entered into before the 3rd day of December, 1940.

18. Sale of uncured coffee.—No registered owner shall sell uncured coffee (including pounded coffee) direct from an estate except under and in accordance with the provisions of a licence procured from the Board under section 24.

19. Sale of cured coffee.—No registered owner shall sell cured coffee (including pounded coffee) otherwise than through a curing establishment licensed under section 28.

20. Export of coffee.—No coffee shall be exported from British India otherwise than by or under the authority of the Board in pursuance of its functions under section 26, and the provisions of the Sea Customs Act, 1878, shall have effect as if the provision made by this section had been made by notification issued under section 19 of that Act :

Provided that nothing herein contained shall apply to coffee despatched out of British India by post, or carried in a passenger's luggage for his personal use.

21. Re-import of coffee exported from India.—(1) No coffee which has been exported from India shall be re-imported into British India except under and in accordance with a permit granted by the Board.

(2) The Board may in any fit case grant such a permit and no charge shall be made therefor.

22. Internal sale quota.—(1) The Board shall, as soon as may be after the commencement of this Ordinance, allot to each registered estate an internal sale quota for the year.

(2) The internal sale quota shall be a fixed percentage, common to all registered estates, of the probable total production of the estate in the year as estimated by the Board.

(3) The Board may at any time vary the internal sale quota by varying the fixed percentage common to all registered estates, or may express the whole or any part of the internal sale quota of an estate in terms of bulk instead of in terms of weight.

23. Returns to be made by registered owners.—(1) A registered owner shall furnish to the Board at the prescribed times and in the prescribed manner such returns as may be prescribed.

(2) If any registered owner fails to furnish the returns required under sub-section (1) in respect of any estate, the Board may refuse to allot an internal sale quota to that estate, or, where an internal sale quota has already been allotted, may cancel it.

(3) The Board may authorise an officer to visit any estate at any time to verify the accuracy of any return made under this section or to ascertain the productive capacity of the estate.

24. Licences for sale of uncured coffee.—The registered owner of any estate may, subject to the prescribed conditions and so long as the internal sale quota allotted to that estate will not be exceeded by the proposed sale, obtain from the Board a licence for the sale from that estate of uncured coffee.

25. Surplus coffee and surplus pool.—(1) All coffee produced by a registered estate in excess of the amount specified in the internal sale quota allotted to that estate shall be delivered to the Board for inclusion in the surplus pool by the owner of the estate or by the curing establishment receiving the coffee from the estate.

(2) Delivery shall be made to the Board in such places and in such manner as the Board may direct, and such directions may provide for partial delivery to the surplus pool at any time whether or not at that time the internal sale quota has been exceeded; and the coffee delivered shall, unless the Board otherwise directs in the case of coffee already in curing establishments at the commencement of this Ordinance, be such as to represent fairly in kind and quality the produce of the estate. The Board may reject any consignment offered for delivery which does not satisfy this requirement, but shall not reject any consignment merely for a defect in curing.

(3) Coffee delivered for inclusion in the surplus pool shall upon delivery to the Board remain under the control of the Board which shall be responsible for storage, curing where necessary, and marketing of the coffee.

(4) The Board shall, with the concurrence of the Controller of Coffee, prepare a differential scale for the valuation of coffee, and shall in accordance with that scale classify the coffee in each consignment delivered for inclusion in the surplus pool according to its kind and quality, and shall make an assessment of its value based on its quantity, kind and quality.

(5) The Board may, with the consent of a registered owner, before an internal sale quota has been allotted to an estate, treat as having been delivered for inclusion in the surplus pool any coffee from such estate which the registered owner may agree to have so treated.

26. Sales of coffee by the Board.—(1) The Board shall take all practical measures to market the coffee included in the surplus pool, and all sales thereof shall be conducted by or through the Board.

(2) The Board may purchase for inclusion in the surplus pool coffee not delivered for inclusion in it.

Curing of Coffee.

27. Coffee to be cured in licensed curing establishments.—No registered owner shall cause or allow coffee to be cured elsewhere than in a licensed curing establishment, whether the curing establishment is maintained by himself or by another person.

28. Licensing of curing establishments.—Every establishment for curing coffee shall obtain from the Board a licence to operate as such.

29. Information to be supplied to the Board in connection with curing.—(1) A registered owner when sending coffee to a curing establishment shall report to the Board, separately for each estate from which coffee is sent, the amount of coffee sent; and the curing establishment shall, in accordance with such instructions as may be issued by the Board and having regard to the internal sale quota of the estate, apportion each such consignment into two parts, one part consisting of coffee intended for internal sale and one part of coffee intended to be delivered for inclusion in the surplus pool and shall report to the Board the amount of coffee in each such part.

(2) Every curing establishment shall, so far as may be, comply with the provisions of sub-section (1) in respect of all coffee in the establishment at the commencement of this Ordinance.

(3) A registered owner curing coffee in a curing establishment maintained by himself shall supply to the Board the information specified in sub-section (1).

(4) A curing establishment which buys or receives cured coffee from any person shall ascertain the estate on which the coffee was produced and shall report to the Board the quantity of coffee so obtained and the estate or estates from which it came.

(5) Every curing establishment shall maintain accounts in such forms as may be required by the Board and such accounts shall be open to inspection at any time by the Board or by an officer authorised in this behalf by the Board.

Finance.

30. Separate funds to be maintained by the Board.—The Board shall maintain two separate funds, a general fund and a pool fund.

31. General fund.—(1) To the general fund shall be credited all proceeds of the duty of customs and the duty of excise levied under section 11 and section 12, respectively, and all receipts including receipts for licences issued by the Board, other than those to be credited under section 32 to the pool fund.

(2) The general fund shall be applied to meet the expenses of the Board, the cost of such measures as it may consider advisable to undertake for promoting the sale and increasing the consumption in India and elsewhere of coffee produced in India, or for promoting agricultural and technological research in the interest of the coffee industry in India, and the costs of storing and marketing coffee deposited in and of administering the surplus pool.

32. Pool fund.—(1) To the pool fund shall be credited all sums realised by sales by the Board of coffee from the surplus pool.

(2) Subject to the provisions of sub-section (4) of section 13, the pool fund shall be applied only to—

(a) the making to registered owners of estates of payments proportionate to the value of the coffee delivered by them for inclusion in the surplus pool ;

(b) the cost of curing coffee deposited in the surplus pool ;

(c) the purchase of coffee not delivered for inclusion in the surplus pool.

33. Power to borrow.—The Board may, subject to any prescribed conditions, borrow on the security of the general fund or the pool fund for any purposes for which it is authorised to expend money from such fund.

34. Payments to registered owners.—(1) The Board shall at such times as it thinks fit make to registered owners who have delivered coffee for inclusion in the surplus pool such payments out of the pool fund as it may think proper.

(2) The sum of all payments made under sub-section (1) to any one registered owner shall bear to the sum of the payments made to all registered owners the same proportion as the value of the coffee delivered by him during the year to the surplus pool bears to the value of all coffee delivered to the surplus pool in the year.

Penalties and Procedure.

35. Failure to register.—Any owner of a coffee estate who fails to apply for registration in accordance with section 14 shall be punishable with fine which may extend to one thousand rupees and to a further fine which

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may extend to five hundred rupees for each month after the first during which such failure continues.

36. Sale of coffee in contravention of sections 16, 17, 18 or 19.—Any registered owner who sells coffee in contravention of section 16 or section 17 or section 18 or section 19 shall be punishable with fine which may extend to one thousand rupees, and the Board may thereafter deduct from any payment to be made under section 34 to such registered owner a sum equal to the value as estimated by the Board of the coffee unlawfully sold.

37. Unlicensed curing establishment.—If any curing establishment operates as such without a licence, the owner shall be punishable with fine which may extend to five hundred rupees.

38. False returns.—Any person who makes in any return to be furnished under section 23 or in any report to be made under section 29 any statement which is false and which he knows to be false or does not believe to be true shall be punishable with fine which may extend to one thousand rupees.

39. Obstruction.—Whoever obstructs any member or officer of the Board or any person authorised by the Board, in the discharge of any duty imposed on or entrusted to him under this Ordinance, or who having control over or custody of any records fails to produce such records when required to do so by a member or officer of the Board or by a person authorised by the Board to inspect such records, shall be punishable with fine which may extend to one thousand rupees.

40. Cognizance of offences.—(1) No Court other than the Court of a Magistrate of the first class shall take cognizance of any offence punishable under this Ordinance.

(2) No Court shall take cognizance of an offence punishable under section 35 except on complaint made by an officer authorised in this behalf by the Provincial Government or of an offence punishable under any other section except on complaint made with the previous sanction of the Central Government by an officer authorised in this behalf by the Board.

• *General.*

41. Power of Board to determine amount of coffee sold by an estate.—The Board shall have power to determine, after such inquiry as it thinks fit, the amount of coffee which has at the commencement of this Ordinance been sold, or been sold and delivered in the year by any registered estate, and the amount so determined shall be conclusive for the purposes of section 12 and section 17.

42. Control by the Central Government.—(1) All acts of the Board shall be subject to the control of the Central Government which may cancel, suspend or modify as it thinks fit any action taken by the Board.

(2) The records of the Board shall be open to inspection at all reasonable times by any officer authorised in this behalf by the Central Government.

43. Appeals to the Central Government.—(1) Any person aggrieved by an order of the Board refusing a licence to or cancelling a licence of a curing establishment may, within sixty days of the making of the order, appeal to the Central Government.

(2) Any person making an appeal under this section shall pay a fee of five rupees which shall be credited to Central Revenues.

44. Inspection of records. Any member of the Board, and any officer of the Board or other person authorised in this behalf by the Central Gov-

ernment or the Board, may enter any registered estate or any curing establishment and may require the production for his inspection of any records kept therein.

45. Accounts of the Board.—(1) The Board shall keep accounts in such manner as may be prescribed of all money received and expended by it under this Ordinance.

(2) The accounts shall be kept separately for the general fund and the pool fund.

(3) The Board shall cause the accounts to be audited annually by auditors appointed by the Central Government, and the auditors shall have power to disallow any item of expenditure which has, in their opinion, been incurred otherwise than in accordance with this Ordinance.

(4) The Central Government may on the application of the Board allow any item of expenditure disallowed by the auditors under subsection (3).

46. Inspection of records of the Board and obtaining of copies.—Any registered owner to whom an internal sale quota is allotted may, subject to the prescribed conditions, inspect the records maintained by the Board and may on payment of the prescribed fee obtain copies of any proceedings or orders of the Board.

47. Contracts.—Nothing in this Ordinance shall apply to or affect any contract for the sale of coffee entered into before the 3rd day of December 1940, if before the expiration of twenty-one days from the commencement of this Ordinance the owner of the coffee estate or the exporter who has effected the contract has furnished to the Board particulars of such contract; but all contracts made on or after the said date shall on the commencement of this Ordinance, in so far as they are at variance with the provisions of this Ordinance, be void:

Provided that the Central Government may by order relax the provisions of this section in their application to any individual contract.

48. Power of the Central Government to make rules.—(1) The Central Government may after consulting the Board, by notification in the official Gazette, make rules to carry out the purposes of this Ordinance.

(2) Without prejudice to the generality of the foregoing power rules may be made providing for all or any of the following matters, namely:—

(a) the term of office of members of the Board, the circumstances in which and the authority by which members may be removed, and the filling of casual vacancies in the Board;

(b) the conduct of business by the Board and the number of members which shall form a quorum at a meeting;

(c) the maintenance by the Board of records of business transacted by the Board, and the submission of copies thereof to the Central Government;

(d) the preparation by the Board of estimates of annual receipts and expenditure;

(e) the manner in which the internal sale quota of coffee estates shall be determined;

(f) the manner in which the Board shall exercise its powers of buying and selling coffee in the Indian market;

(g) the appointment by the Board of agents;

(h) the conditions to be fulfilled by a curing establishment before a licence to operate as such can be issued;

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(i) the form of and the particulars to be contained in any returns or reports to be made to the Board under this Ordinance ;

(j) the form of, manner of application for, fees payable for, procedure in granting and conditions governing the licences and permits to be issued by the Board ;

(k) any other matter except the matters referred to in section 15 which is to be or may be prescribed under this Ordinance.

49. Act XIV of 1935 to be deemed to be repealed.—(1) So long as this Ordinance remains in force the Indian Coffee Cess Act, 1935, shall be deemed to be repealed, without prejudice however to the continuing validity of any action taken by the Indian Coffee Cess Committee which is not inconsistent with the provisions of this Ordinance.

(2) All rules made by the Central Board of Revenue under section 9 of the Indian Coffee Cess Act, 1935, shall until replaced by rules made under sub-section (3) of section 13 of this Ordinance continue to have effect in respect of the duty of customs imposed by section 11 of this Ordinance as they had effect in respect of the coffee cess imposed by that Act.

Published in the "Gazette of India", Extraordinary, dated the 23rd December 1940.

LEGISLATIVE DEPARTMENT.

New Delhi, the 14th December 1940.

The Indian Coinage (Third Amendment) Ordinance, 1940.

Ordinance No. XIV of 1940.

An Ordinance further to amend the Indian Coinage Act, 1906.

WHEREAS an emergency has arisen which makes it necessary further to amend the Indian Coinage Act, 1906 ;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, the Governor General is pleased to make and promulgate the following Ordinance :—

1. Short title and commencement.—(1) This Ordinance may be called the Indian Coinage (Third Amendment) Ordinance, 1940.

(2) It shall come force at once.

2. Amendment of section, 5 Act III of 1906.—In section 5 of the Indian Coinage Act, 1906 (hereinafter referred to as the said Act),—

(a) in sub-section (3), for the words "eleven-twelfths, or one hundred and sixty-five grains of fine silver, and one-twelfth, or fifteen grains of alloy", the following words shall be substituted, namely :—

"one-half, or ninety grains of fine silver and one-half, or ninety grains of alloy" ;

(b) for sub-section (4) the following sub-section shall be substituted, namely :—

"(4) In the making of silver coins, a remedy shall be allowed of an amount not exceeding the following, namely :—

	Remedy in weight.	Remedy in fineness.
Rupree	} Nine-thousandths	Five-thousandths.
Half-rupree		
Quarter-rupree		

and in applying the said remedies the remedies shall be applied to the average of fifty coins in the case of rupees and half-rupees, and to the average of one hundred coins in the case of quarter-rupees, and not to individual coins."

3. *Amendment of section 15, Act III of 1906.*—For sub-sections (3) and (4) of section 15 of the said Act, the following sub-section shall be substituted, namely :—

"(8) Subject to the provisions of section 15A and to the provisions contained in section 12, all rupee coins and half-rupee silver coins which may have been issued under this Act prior to the commencement of the Indian Coinage (Third Amendment) Ordinance, 1940, shall continue to be a legal tender in payment or on account for any sum, and all quarter-rupee silver coins which may have been so issued shall continue to be a legal tender in payment or on account for any sum not exceeding one rupee at the rate of four for a rupee."

Published in the "*Gazette of India*", Extraordinary, dated 4th February, 1941.

LEGISLATIVE DEPARTMENT.

New Delhi, the 4th February, 1941.

The Coffee Market Expansion (Amendment) Ordinance, 1941.

Ordinance No. 1 of 1941.

An Ordinance to amend the Coffee Market Expansion Ordinance, 1940.

WHEREAS an emergency has arisen which makes it necessary to amend the Coffee Market Expansion Ordinance, 1940, for the purposes hereinafter appearing;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935, the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Coffee Market Expansion (Amendment) Ordinance, 1941.

(2) It shall come into force at once.

2. *Amendment of section 3, Ordinance XIII of 1940.*—In clause (b) of section 3 of the Coffee Market Expansion Ordinance, 1940 (hereinafter referred to as the said Ordinance), for the words "and uncured coffee" the words, "uncured coffee, roasted coffee and prepared coffee" shall be substituted.

3. *Substitution of new section for section 18, Ordinance XIII of 1940.*—For section 18 of the said Ordinance the following section shall be substituted, namely :—

18. *Sale of coffee, how made.*—No registered owner shall sell coffee unless either—

(a) it has been cured at or is delivered to the buyer through a curing establishment licensed under section 28, or

(b) it is sold under and in accordance with the provisions of a licence procured from the Board under section 24."

4. *Omission of section 19, Ordinance XIII of 1940.*—Section 19 of the said Ordinance shall be omitted.

5. *Amendment of section 20, Ordinance XIII of 1940.*—In section 20 of the said Ordinance, for the words and figures "otherwise than by, or under the authority of the Board in pursuance of its functions under section 26" the words "otherwise than by the Board or under an authorisation granted by the Board in the prescribed manner and in the prescribed cases" shall be substituted and to the section as so amended the following further proviso shall be added, namely :—

"Provided further that the Central Government may exempt from the operation of this section, either absolutely or subject to conditions, the export of coffee from British India to an Indian State, or to any foreign settlement bounded by India."

6. *Amendment of section 31, Ordinance XIII of 1940.*—In sub-section (2) of section 31 of the said Ordinance, the words "and the costs of storing and the marketing coffee deposited in and of administering the surplus pool" shall be omitted.

7. *Amendment of section 32, Ordinance XIII of 1940.*—For clause (b) of sub-section (2) of section 32 of the said Ordinance the following clause shall be substituted, namely:—

"(b) the costs of storing, curing and marketing coffee deposited in and of administering the surplus pool ;

8. *Amendment of section 48, Ordinance XIII of 1940.*—In sub-section (1) of section 48 of the said Ordinance the words "after consulting the Board" shall be omitted.

Published in the "*Gazette of India*" Extraordinary, dated 4th February 1941.

LEGISLATIVE DEPARTMENT.

New Delhi, the 4th February, 1941.

The Civic Guards (Amendment) Ordinance, 1941.

Ordinance No. II of 1941.

An Ordinance to amend the Civic Guards Ordinance, 1940.

WHEREAS an emergency has arisen which makes it necessary to amend the Civic Guards Ordinance, 1940, for the purpose hereinafter appearing ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935, the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Civic Guards (Amendment) Ordinance, 1941.

(2) It shall come into force at once.

2. *Addition of new section 9 to Ordinance VIII of 1940.*—After section 8 of the Civic Guards Ordinance, 1940, the following section shall be added, namely:—

"9. *Presidency-town of Calcutta to include suburbs of town of Calcutta.*—For the purposes of this Ordinance and with effect from the commencement thereof the Presidency-town of Calcutta shall be deemed to include the tract of country defined in the notification, dated the 21st day of September, 1880, published in the official Gazette in pursuance of section 1 of the Calcutta Suburban Police Act, 1866, as the limits to which the operation of that Act is confined."

Published in the "*Gazette of India*", Extraordinary, dated 8th February, 1941.

LEGISLATIVE DEPARTMENT.

New Delhi, the 8th February 1941.

The Reserve Bank of India (Amendment) Ordinance, 1941.

Ordinance No. III of 1941.

An Ordinance further to amend the Reserve Bank of India Act, 1934.

WHEREAS an emergency has arisen which makes it necessary further to amend the Reserve Bank of India Act, 1934 ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Reserve Bank of India (Amendment) Ordinance, 1941.

(2) It shall come into force at once.

2. *Amendment of section 33, Act II of 1934.*—The proviso to sub-section (3) of section 33 of the Reserve Bank of India Act, 1934, shall be omitted.

Published in the "*Calcutta Gazette*", Part I, Extraordinary, dated the 29th April 1941.

The Bengal Court of Wards Ordinance, 1941.
Bengal Ordinance No. I of 1941.

WHEREAS the Bengal Legislature is not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action ;

And, whereas the instructions of the Governor General under sub-clause (ii) of clause (b) of the proviso to sub-section (1) of section 88 of the Government of India Act, 1935, have been obtained ;

The Governor in exercise of the powers conferred by sub-section (1) of the said section, is pleased to make and promulgate the following Ordinance, namely :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Bengal Court of Wards Ordinance, 1941.

(2) It shall come into force on the date of its publication in the Official Gazette.

2. *Temporary amendment of Bengal Act IX of 1879.*—While this Ordinance is in operation, the Court of Wards Act, 1879, shall have effect as if—

(a) in section 3, before the definition of "Collector" the following definition had been inserted, namely :—

"Civil Court" includes the High Court in Calcutta in the exercise of its ordinary and extraordinary original civil jurisdiction or its civil appellate or revisional jurisdiction ; and

(b) section 56 had been omitted.

3. *Retrospective effect.*—The amendments in the Court of Wards Act, 1879, referred to in section 2 shall have effect in respect of all suits or proceedings including proceedings in execution which are pending on the date of commencement of this Ordinance.

Published in the "*Gazette of India*", Extraordinary, dated the 10th May, 1941.
LEGISLATIVE DEPARTMENT.

Simla, the 10th May, 1941.

The Air Raid Precautions Services Ordinance, 1941.
Ordinance No. IV of 1941.

An Ordinance to provide for the constitution of Air Raid Precautions Services.

WHEREAS an emergency has arisen which makes it necessary to provide for the constitution of Air Raid Precautions Services to carry out measures for the protection of persons and property against hostile attack whether from the air or otherwise.

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935, the Governor General is pleased to make and promulgate the following Ordinance:

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Air Raid Precautions Services Ordinance, 1941.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Interpretation.*—In this Ordinance, unless there is anything repugnant in the subject or context, the expression "Provincial Government" means in relation to a Chief Commissioner's Province the Chief Commissioner.

3. *Constitution of Air Raid Precautions Services*—The Provincial Government may constitute for any area a body to be called an Air Raid Precautions Service, and may appoint a person, hereinafter called the Controller, to command such body in such area.

4. *Appointment of members and officers.*—(1) Any authority authorized in this behalf by the Provincial Government may appoint as members of an Air Raid Precautions Service so many persons who are fit and willing to serve as such as it is authorized by the Provincial Government to appoint, and the Controller may appoint any such member to any office of command in the Service.

(2) Every person so appointed to be a member of an Air Raid Precautions Service shall be given a certificate of membership in such form as may be prescribed.

5. *Dismissal of members.*—The Controller or any other authority authorized in this behalf by the Provincial Government may by order in writing dismiss summarily from an Air Raid Precautions Service any member thereof if, in the opinion of the Controller or such other authority, he fails to discharge satisfactorily his duties as such member, or is guilty of misconduct in the discharge of his duties as such member, or his continued presence in the Service is otherwise undesirable.

6. *Functions of members.*—(1) The members of an Air Raid Precautions Service shall perform such functions in relation to the carrying out of measures for the protection of the persons and property against hostile attack as may be assigned to them by or under this Ordinance or any other law for the time being in force.

(2) The Controller or any person authorized in this behalf by the Controller or by the Provincial Government, may at any time call out a member of an Air Raid Precautions Service for training or to discharge any such function as aforesaid.

7. *Bar of suits.*—No suit, prosecution or other legal proceeding shall lie against the Controller or any member of an Air Raid Precautions Service for anything which is in good faith done or intended to be done in pursuance of this Ordinance or any rules made thereunder.

8. *Protection against prosecution.*—No prosecution shall be instituted against the Controller or any member of an Air Raid Precautions Service in respect of anything done or purporting to be done by him in discharge of his functions as such Controller or member except with the previous sanction of the Provincial Government.

9. *Penalty.*—If any member of an Air Raid Precautions Service, on being called out under sub-section (2) of section 6, without sufficient excuse neglects or refuses to obey such order or to discharge his functions as a member of the Air Raid Precautions Service or to obey any lawful order or direction given to him for the performance of his duties, he shall, on conviction by a competent Court, be punishable with fine which may extend to fifty rupees.

10. *Rule-making power.*—(1) The Central Government may make rules consistent with this Ordinance—

- (a) prescribing the duties of members of Air Raid Precautions Services, and regulating the manner in which they may be called out for service;
- (b) regulating the organization, appointment, conditions of service, discipline, accoutrements and clothing of members of any or all Air Raid Precautions Services.
- (c) prescribing the form of certificates of membership of any or all Air Raid Precautions Services;
- (d) generally for giving effect to the provisions of this Ordinance.
- (2) The Central Government may delegate to a Provincial Government its power to make rules under this section.

Published in the "Gazette of India", Extraordinary, dated the 26th June, 1941.
LEGISLATIVE DEPARTMENT.

Simla, the 26th June, 1941.

**The State Prisoners (Detention of Lunatics) Ordinance, 1941:
Ordinance No. V of 1941,**

An Ordinance to authorise the reception and detention in an asylum of individuals committed by warrants issued under the Bengal State Prisoners Regulation, 1818, to detention in that asylum.

WHEREAS an emergency has arisen which makes it necessary to authorise the reception and detention in an asylum of individuals committed by warrants issued under the Bengal State Prisoners Regulation, 1818, to detention in that asylum;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935, the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the State Prisoners (Detention of Lunatics) Ordinance, 1941.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2 *Power to receive and detain in asylum person restrained under Regulation III of 1818.*—Notwithstanding anything contained in the Indian Lunacy Act, 1912, a warrant of commitment issued under section 2 of the Bengal State Prisoners Regulation, 1818, directing the detention in an asylum of an individual placed under personal restraint, in pursuance of that section who is, in the opinion of the authority issuing that warrant, insane, shall be and shall be deemed to have been from the time such warrant was issued sufficient authority for the reception and detention of that individual in that asylum or in any other asylum to which he may be lawfully transferred.

Published in the "Gazette of India", Extraordinary, dated the 30th June, 1941.
LEGISLATIVE DEPARTMENT.

Simla, the 30th June, 1941.

**The National Service (European British Subjects) Amendment
Ordinance, 1941.**

Ordinance No. VI of 1941.

An Ordinance further to amend the National Service (European British Subjects) Act, 1940

WHEREAS an emergency has arisen which makes it necessary further to

amend the National Service (European British Subjects) Act, 1940, for the purposes hereinafter appearing;

• NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935, the Governor General is pleased to make and promulgate the following Ordinance:—

• 1. *Short title and commencement.*—(1) This Ordinance may be called the National Service (European British Subjects) Amendment Ordinance, 1941.

• (2). It shall come into force at once.

• 2. *Insertion of new section 4A in Act XVIII of 1940.*—After section 4 of the National Service (European British Subjects) Act, 1940 (hereinafter referred to as the said Act) the following section shall be inserted, namely:—

• “4A. *Determination of question whether a person is liable to be called up for national service.*—(1) If any question arises with respect to a person on whom it is proposed to serve a notice under sub-section (1) of section 4, or with respect to a person on whom a notice under sub-section (1) of section 4 has been served, whether such person is liable under this Act to be called up for national service, the competent authority shall, unless the question has proved capable of settlement by agreement apply or cause an application to be made to the District Magistrate or to an officer specially empowered in this behalf by the Central Government in the area in which such person is for the time being present to have the matter determined, and such Magistrate or other officer, after hearing both parties to the question or giving them a reasonable opportunity of being heard, shall summarily determine the matter, and the decision of such Magistrate or other officer shall be final.

(2) A claim with respect to a person on whom a notice under sub-section (1) of section 4 has been served that he is not liable under this Act to be called up for national service shall be presented by the claimant to the competent authority, not later than the date on which the person concerned is required by the said notice to present himself for examination by the National Service Advisory Committee, and shall be accompanied by a statement of such claim in writing to the competent authority, and no such claim may be made at any other time or in any other manner.

(3) In determining any question referred to in sub-section (1) the fact that a person has registered himself as a European British subject under the provisions of the Registration (Emergency Powers) Act, 1940, or that he has, after a determination under section 4 of that Act, been registered as a European British subject under the provisions of that Act, shall be conclusive proof that such person is a European British subject for the purposes of this Act.”

• 3. *Amendment of section 8, Act XVIII of 1940.*—(1) Section 8 of the said Act shall be renumbered as sub-section (1) of that section and in the said section as so renumbered—

• (a) for the words “at the termination of that service”, the words “at the termination of his national service or service in the armed forces or training as a cadet where such training is not followed by service in the armed forces, as the case may be,” and for the words “had he not been so taken into service as aforesaid” the words “had his employment not been so interrupted” shall be substituted;

• (b) in the first proviso, for the words “Provided that if for any reason the reinstatement of such person or member” the following words shall be substituted, namely:—

"Provided that if the employer refuses to reinstate such person, or denies his liability to reinstate such person or if for any reason the reinstatement of such person,"

and the words "or member", where they occur for the second and third times, shall be omitted;

(c) in the second proviso, for the words "from the termination of the national service for which he was called up under this Act" the words "from the termination of his national service, or service in the armed forces or training as a cadet where such training is not followed by service in the armed forces, as the case may be" shall be substituted.

(2) To the said section as so renumbered the following sub-section shall be added, namely:—

(2) The duty imposed by sub-section (1) upon an employer to reinstate in his employment a person such as is described in that sub-section shall attach to an employer who before such person is actually called up or taken into service terminates his employment in circumstances such as to indicate an intention to evade the duty imposed by that sub-section, and such intention shall be presumed until the contrary is proved if the termination of employment takes place after the issue of a notice under sub-section (1) of section 4 upon such person.

Published in the "*Gazette of India*", Extraordinary, dated 25th July, 1941.

LEGISLATIVE DEPARTMENT.

Simla, the 25th July, 1941.

The War Injuries Ordinance, 1941.

Ordinance No. VII of 1941.

An Ordinance to make provision for the grant of relief in respect of certain personal injuries sustained during the continuance of the present hostilities.

WHEREAS an emergency has arisen which renders it necessary to make provision for the grant of relief in respect of certain personal injuries sustained during the continuance of the present hostilities;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the War Injuries Ordinance, 1941.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Interpretation.*—In this Ordinance, unless there is anything repugnant in the subject or context,—

(1) "civil defence organisation" means any organisation established for civil defence purposes which is declared by a scheme to be a civil defence organisation for the purposes of this Ordinance and the scheme;

(2) "civil defence volunteer", in relation to an injury, means a person certified, by an officer of a civil defence organisation authorised by the Central Government to grant such certificates, to have been a member of that organisation at the time the injury was sustained;

(3) "continuance of the present hostilities" means the period beginning with the commencement of this Ordinance and ending with such date as the

Central Government may, by notification in the official Gazette, declare to be the date on which the present hostilities terminated;

- (4) "gainfully occupied person" means a person who is engaged in any trade, business, profession, office, employment or vocation and is wholly or substantially dependent thereon for a livelihood, or a person who, though temporarily unemployed, is normally so engaged and dependent;

(5) "scheme" means a scheme made under this Ordinance;

(6) "war injury" means a physical injury—

(a) caused by—

- (i) the discharge of any missile (including liquids and gas), or
- (ii) the use of any weapon, explosive or other noxious thing, or
- (iii) the doing of any other injurious act,

either by the enemy or in combating the enemy or in repelling an imagined attack by the enemy; or

(b) caused by the impact on any person or property of any enemy aircraft, or any aircraft belonging to or held by any person on behalf of or for the benefit of His Majesty, or any allied power, or any part of, or anything dropped from, any such aircraft;

(7) "war service injury", in relation to a civil defence volunteer, means any physical injury shown to the satisfaction of the Central Government or other authority authorised to make payments under a scheme to have arisen out of and in the course of the performance by the volunteer of his duties as a member of the civil defence organisation to which he belonged at the time the injury was sustained, and (except in the case of a war injury) not to have arisen out of and in the course of his employment in any other capacity:

Provided that before being so satisfied the Central Government or other authority authorised to make payments under a scheme shall have received from the civil defence organisation of which the volunteer concerned was a member at the time the injury was sustained, a report by an officer of the organisation authorised by the Central Government to make such reports, about the injury in question.

3. Power to make schemes for relief in respect of war injuries and war service injuries.—(1) The Central Government may make a scheme or schemes in accordance with the provisions of this Ordinance providing for the grant of relief in respect of the following injuries sustained during the continuance of the present hostilities, namely:—

(a) war injuries sustained by gainfully occupied persons (with such exceptions, if any, as may be specified in the scheme) and by persons of such other classes as may be so specified; and

(b) war service injuries sustained by civil defence volunteers.

(2) A scheme may authorise the Central Government, or any authority authorised by the Central Government, to make payments under the scheme, in such circumstances and subject to such conditions as may be specified in the scheme, to make to or in respect of persons injured—

(a) payments by way of temporary allowance, which shall be payable only so long as the person injured is incapacitated for work by the injury and has not received any such payment as is mentioned in clause (b);

(b) payments otherwise than by way of temporary allowance, which shall be payable only where the injury causes serious and prolonged disablement or death; and

(c) payments for the purchase of or the grant at the cost of Government of artificial limbs or surgical or other appliances.

(3) A scheme may empower the Central Government to make regulations for giving effect to the purposes of the scheme.

(4) A scheme may provide that it shall come into operation or shall be deemed to have come into operation on such date as may be specified therein.

(5) A scheme may be amended or rescinded at any time by the Central Government.

(6) Any decision of the Central Government or other authority empowered to make payments under a scheme as to the making, refusal or amount, or as to the continuance or discontinuance, of a payment under a scheme may be varied from time to time by a subsequent decision of the Central Government or such authority as the case may be, but save in so far as it is so varied shall be final and conclusive.

4. *Relief from liability to pay compensation or damages.*—(1) In respect of a war injury sustained during the continuance of the present hostilities by any person, and in respect of a war service injury sustained during that period by a civil defence volunteer, no such compensation or damages shall be payable, whether to the person injured or to any other person, as apart from the provisions of this sub-section—

(a) would be payable under the Workmen's Compensation Act, 1923 ; or

(b) would, whether by virtue of any enactment or by virtue of any contract or at common law, be payable—

(i) in the case of a war injury, by any person, or

(ii) in the case of a war service injury sustained by a civil defence volunteer, by the employer of the volunteer, or by any person who has responsibility in connection with the volunteer's duties as such or by any other civil defence volunteer,

on the ground that the injury in question was attributable to some negligence, nuisance or breach of duty for which the person by whom the compensation or damages would be payable is responsible.

(2) The failure to give a notice or make a claim or commence proceedings within the time required by any enactment shall not be a bar to the maintenance of proceedings in respect of any personal injury, if—

(a) an application for a payment under a scheme has been duly made to the Central Government or other authority empowered to make payments under the scheme in respect of the injury ; and

(b) the Court or other authority before which the proceedings are brought is satisfied that the said application was made in the reasonable belief that the injury was such that a payment could be made under the scheme ; and

(c) the Central Government or other authority empowered to make payments under the scheme certifies that the application was rejected, or that payments made in pursuance of the application were discontinued, on the ground that the injury was not such an injury ; and

(d) the proceedings are commenced within one month from the date of the said certificate.

5. *Information as to earnings.*—(1) Where it is necessary in order to determine the amount of any payment to be awarded under a scheme in respect of any injury, to ascertain the earnings of the person injured in respect of any period before he sustained the injury, the Central Government or other authority authorised to make payments under the scheme may by notice in writing require—

(a) any person who was an employer of the injured person during that period, or

(b) any other person having any knowledge with respect to the financial circumstances of the injured person during that period, to furnish in accordance with the notice any information in his possession relating to those earnings or circumstances, and to produce to any person specified in the notice any wage books, records or other documents in his possession containing entries with respect to those earnings.

(2) If any person—

(a) fails to comply with the requirements of any such notice, or

(b) in purported compliance with any such notice, knowingly or recklessly makes any untrue statement or untrue representation, or produces any document which is false in a material particular or calculated to deceive, he shall be punishable with fine which may extend to three hundred rupees.

6. *Penalty for false statement.*—Any person who, for the purpose of obtaining a payment or grant under a scheme either for himself or for any other person, knowingly makes any untrue statement or untrue representation, shall be punishable with imprisonment for a term which may extend to three months.

7. *Assignments or charges to be void.*—Any assignment of, or charge on, and any agreement to assign or charge any payment awarded or to be awarded under a scheme shall be void, and, on the insolvency of any person to whom such a payment has been awarded, the payment shall not pass to any trustee or other person acting on behalf of the creditors.

Published in the "Gazette of India", Extraordinary, dated 28th August, 1941.
LEGISLATIVE DEPARTMENT.

Simla, the 28th August, 1941.

The Coffee Market Expansion (Second Amendment) Ordinance, 1941.
Ordinance No. VIII of 1941.

An Ordinance further to amend the Coffee Market Expansion Ordinance, 1940.

WHEREAS an emergency has arisen which makes it necessary further to amend the Coffee Market Expansion Ordinance, 1940, for the purposes hereinafter appearing;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935, the Governor General is pleased to make and promulgate the following Ordinance.

1. *Short title and commencement.*—(1) This Ordinance may be called the Coffee Market Expansion (Second Amendment) Ordinance, 1941.

(2) It shall come into force at once.

2. *Amendment of section 1, Ordinance XIII of 1940.*—In sub-section (4) of section 1 of the Coffee Market Expansion Ordinance, 1940 (hereinafter referred to as the said Ordinance), for the figures and words "31st day of August, 1941" the figures and words "30th day of June, 1942" shall be substituted.

3. *Amendment of section 3, Ordinance XIII of 1940*—In section 3 of the said Ordinance for clause (n) and the proviso thereto, the following clause shall be substituted, namely:—

"(n)" 'year' means the period of twelve months beginning with the first day of July and ending with the thirtieth day of June following."

4. *Amendment of section 12, Ordinance XIII of 1940.*—In section 12 of the said Ordinance for the words "before the commencement of this Ordinance" the words, brackets and figures "before the estate became subject to the provisions of sub-section (1) of section 14" shall be substituted.

5. *Amendment of section 14, Ordinance XIII of 1940.*—In sub-section (1) of section 14 of the said Ordinance for the word "twenty-five" the word "ten" shall be substituted.

6. *Amendment of section 17, Ordinance XIII of 1940.*—In section 17 of the said Ordinance—

(a) the words "after the commencement of this Ordinance", where they occur for the first time, shall be omitted;

(b) in the proviso, for the words and figures "before the 3rd day of December, 1940", in both places where they occur, the words, brackets and figures "before the estate became subject to the provisions of sub-section (1) of section 14" shall be substituted, and for the words "after the commencement of this Ordinance" the words "after the estate became so subject" shall be substituted.

7. *Insertion of new section 19 in Ordinance XIII of 1940*—After section 18 of the said Ordinance the following section shall be inserted, namely:—

"19. *Storage or sale of coffee on or from unregistered estate.*—No owner of an estate not registered under this Ordinance shall sell from, or store on his estate or cause or permit to be sold from or stored on his estate any coffee not grown on the estate."

8. *Amendment of section 22, Ordinance XIII of 1940.*—In sub-section (1) of section 22 of the said Ordinance the words "after the commencement of this Ordinance" shall be omitted.

9. *Amendment of section 34, Ordinance XIII of 1940.*—In sub-section (2) of section 34 of the said Ordinance, for the words "during the year" the words "out of the year's crop" and for the words "in the year" the words "out of that year's crop" shall be substituted.

10. *Substitution of new section for section 36, Ordinance XIII of 1940.*—For section 36 of the said Ordinance the following section shall be substituted, namely:—

"36. *Contraventions of sections 16, 17, 18 and 19.*—(1) Any registered owner who contravenes the provisions of sub-section (2) of section 16, or section 17 or section 18, any licensed curer who contravenes the provisions of sub-section (2) of section 16; and any person who contravenes the provisions of section 19 shall be punishable with fine which may extend to one thousand rupees."

(2) When a registered owner is convicted under this section, the Board may thereafter deduct from any payment to be made under section 34 to such registered owner a sum equal to the value as estimated by the Board of any coffee unlawfully sold by him."

11. *Amendment of section 39, Ordinance XIII of 1940.*—In section 39 of the said Ordinance,—

(a) after the words "authorised by the Board", wherever they occur, the words "or by the Central Government" shall be inserted;

(b) after the words "to do so" the words "or refuses information lawfully asked for" shall be inserted; and

(c) after the words "to inspect such records" the words "or ask for such information" shall be inserted.

12. *Amendment of section 41, Ordinance XIII of 1940.*—In section 41 of the said Ordinance, for the words "at the commencement of this Ordinance" the words, brackets and figures "at the commencement of the Coffee Market Expansion (Second Amendment) Ordinance, 1941" shall be substituted.

13. *Amendment of section 44, Ordinance XIII of 1940.*—In section 44 of the said Ordinance,—

(a) the word "registered" shall be omitted, and

(b) to the said section, the following words shall be added, namely:—

"or, or ask for any information relating to the production, storage or sale of coffee by the estate."

14. *Substitution of new section for section 47, Ordinance XIII of 1940.*—For section 47 of the said Ordinance and the proviso thereto the following section shall be substituted, namely:—

"47. *Contracts.*—Nothing in this Ordinance shall apply to or affect any contract for the sale of coffee entered into—

(a) before the 3rd day of December, 1940, by the owner of a coffee estate which has been subject to sub-section (1) of section 14 from the commencement of this Ordinance, or

(b) before the 28th day of August, 1941, by the owner of a coffee estate which became subject to sub-section (1) of section 14 on the commencement of the Coffee Market Expansion (Second Amendment) Ordinance, 1941, if in the case referred to in clause (a) before the expiration of twenty-one days from the commencement of this Ordinance, or in the case referred to in clause (b) before the expiration of twenty-one days from the commencement of the Coffee Market Expansion (Second Amendment) Ordinance, 1941, the owner of the coffee estate or the exporter who has effected the contract has furnished to the Board particulars of such contract; but all contracts not saved by the provisions of this section shall, in so far as they are at variance with the provisions of this Ordinance, be void."

Published in the *Calcutta Gazette*, Part I, Extraordinary, dated the 4th November 1941.

The Bengal Turbulent Areas Ordinance, 1941.
Bengal Ordinance No. II of 1941.

WHEREAS the Bengal Legislature is not in session and the Governor is satisfied that it is urgently necessary in the public interest to make special provision for dealing with extensive or protracted disturbance of the public peace and that immediate action should be taken for that purpose;

The Governor is pleased, in exercise of the power conferred by sub-section (1) of section 88 of the Government of India Act, 1935, to make and promulgate the following Ordinance, namely:—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Bengal Turbulent Areas Ordinance, 1941.

(2) It extends to the whole of Bengal.

(3) It shall come into force on the date of its publication in the *Official Gazette*.

2. *Definitions.*—In this Ordinance, unless there is anything repugnant in the subject or context,—

(1) "Calcutta" means the town of Calcutta as defined in section 3 of the Calcutta Police Act, 1866, together with the suburbs of Calcutta as defined by notification under section 1 of the Calcutta Suburban Police Act, 1866;

(2) "District Magistrate" means in Calcutta, the Commissioner of Police;

(3) the "inhabitants" of an area include persons who themselves or by their agents or servants occupy or hold land or other immovable property within such area, and landlords who themselves or by their agents or servants collect rents from holders or occupiers of land in such area notwithstanding that they do not actually reside therein.

3. *Declaration of an area as turbulent area.*—The Provincial Government may by notification in the *Official Gazette* declare that any area shall be deemed to be, or is, a turbulent area with effect from such date as may be specified in the notification.

4. *Imposition of collective fine.*—(1) Where it appears to the Provincial Government that the inhabitants of any area in regard to which a notification under section 3 is in force or any class or section of such inhabitants are concerned in or abetting the commission of offences or other acts which are prejudicial to the maintenance of law and order or to the public revenues, or are harbouring persons concerned in the commission of such offences or acts, or are failing to render all assistance in their power to discover or apprehend such persons, or are suppressing material evidence in respect of the commission of such offences or acts, the Provincial Government by notification in the *Official Gazette*—

(a) may impose a collective fine on the inhabitants of such area or any class or section of such inhabitants in respect of such offences or acts generally; and

(b) in addition to any such fine imposed in respect of such offences or acts generally may impose a further collective fine on the inhabitants of such area or any class or section of such inhabitants in respect of any individual such offence or act as may be committed.

(2) The Provincial Government may exempt any person or class or section of such inhabitants from liability to pay any portion of such fine.

(3) The District Magistrate, after such inquiry as he may deem necessary, shall apportion such fine among the inhabitants who are liable to pay it and such apportionment shall be made according to the respective means of such inhabitants.

(4) The portion of such fine payable by any person may be recovered from him as a fine or as a public demand under the Bengal Public Demands Recovery Act, 1913.

5. *Compensation*.—Out of the proceeds of a fine realised under section 4, the Provincial Government or any officer duly authorised in this behalf by the Provincial Government may award compensation to any person who, in the opinion of the Provincial Government or such officer, has suffered injury to person or property by unlawful acts committed within the area.

6. *Savings as to orders*.—No order made in exercise of any power conferred by or under this Ordinance shall be called in question in any Court.

7. *Indemnity*.—No suit, prosecution, or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Ordinance.

Published in the "*Gazette of India*", Extraordinary, dated the 2nd October, 1941.

LEGISLATIVE DEPARTMENT.

Simla, the 2nd October, 1941.

The Indian Navy (Discipline) Amendment Ordinance, 1941.

Ordinance No. IX of 1941.

An Ordinance further to amend the Indian Navy (Discipline) Act, 1934.

WHEREAS an emergency has arisen which makes it necessary further to amend the Indian Navy (Discipline) Act, 1934, for the purpose hereinafter appearing;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935, the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title and commencement*.—(1) This Ordinance may be called the Indian Navy (Discipline) Amendment Ordinance, 1941.

(2) It shall come into force at once.

2. *Amendment of First Schedule, Act XXXIV of 1934*.—In sub-section (1) of section 57-A of the Naval Discipline Act as set forth in the First Schedule to the Indian Navy (Discipline) Act, 1934, after the word "section" the word "nine" shall be inserted.

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THE DEFENCE OF INDIA RULES.¹

(AS AMENDED)

PRELIMINARY.

1. *Short title.*—These Rules may be called the Defence of India Rules.

2. *Definitions.*—In these Rules, unless there is anything repugnant in the subject or context,—

(1) "enemy" means any person or State at war with His Majesty ;

(2)² "enemy territory" means—

(a) any area which is under the sovereignty of, or administered by, or for the time being in the occupation of, a State at war with His Majesty, not being an area in the occupation of His Majesty or of a State allied with His Majesty, and

(b) any area which may be notified by the Central Government to be enemy territory ;

(3) "notified" and "notification" mean notified and notification respectively in the official Gazette ;

(4) "Ordinance" means the Defence of India Ordinance, 1939 ;

(5) "prescribed" means prescribed by any order, direction or regulation made or given in pursuance of any of these Rules ;

(6) "prohibited place" means a prohibited place as defined in subsection (8) of section 2 of the Official Secrets Act, 1923 ;

(7) "protected place" means a place declared under rule 7 to be a protected place ;

(8) "protected area" means an area declared under rule 8 to be a protected area ;

(9) "Provincial Government" means in relation to a Chief Commissioner's Province, the Chief Commissioner ;

(10) "public servant" includes any public servant as defined in the Indian Penal Code and any servant of any local authority or railway administration ;

(11) "requisition" means in relation to any property to take possession of the property or to require the property to be placed at the disposal of the requisitioning authority ;

(12) "war" means any war in which His Majesty may for the time being be engaged.

3. *Interpretation.*—(1) The General Clauses Act, 1897, shall apply to the interpretation of these Rules as it applies to the interpretation of a Central Act.

(2) Any reference in these Rules to the forces, vessels, aircraft, servants, subjects or prisoners of war of His Majesty shall unless there is anything repugnant in the subject or context, be deemed to include the forces, vessels, aircraft, servants, subjects or prisoners of war, as the case may be, of any part of His Majesty's dominions, of any territories under the protection or suzerainty of His Majesty and of any State in alliance with His Majesty.

¹ Published in the *Gazette of India*, Extraordinary, dated the 3rd September 1940, pp. 15 to 63, *vide* Notification No. 221/1-O. R. dated the 3rd September 1939.

² Substituted by Notification No. 529-O.R./40, dated the 23rd July 1940.

(3) Any reference in these Rules to the master of a vessel or the pilot of an aircraft shall be construed as including a reference to the person for the time being in charge of the vessel or aircraft, as the case may be.

4. *Saving*.—No prohibition, restriction or disability imposed by or under these Rules shall apply to anything done by or under the direction of any member of His Majesty's forces or any public servant acting in the course of his duty as such member or public servant.

5. *Non-compliance with these Rules or orders made thereunder*.—If any person to whom any provision of these Rules relates, or to whom any order made in pursuance of these Rules is addressed or relates, or who is in occupation, possession or control of any land, building, vehicle, vessel or other thing to which such provision relates, or in respect of which such order is made—

(a) fails, without lawful authority or excuse, himself, or in respect of any land, building, vehicle, vessel or other thing of which he is in occupation, possession or control, to comply, or to secure compliance, with such provision or order, or

(b) evades, or attempts to evade, by any means such provision, or order,—

he shall be deemed to have contravened such provision of these Rules or, as the case may be, such provision of these Rules as authorise the making of such order; and in these Rules the expression "contravention" with its grammatical variations includes any such failure, evasion or attempt to evade.

PART II.

ACCESS TO CERTAIN PREMISES AND AREAS.

6. *Prohibited places*.—(1) No person shall, without the permission of the Central Government, enter, or be on or in, or pass over, or loiter in the vicinity of, any prohibited place.

(2) Where in pursuance of sub-rule (1) any person is granted permission to enter, or to be on or in, or to pass over, a prohibited place, that person shall, while acting under such permission comply with such orders for regulating his conduct as may be given by the Central Government.

(3) Any police officer, or any other person authorised in this behalf by the Central Government, may search any person entering, or seeking to enter, or being on or in, a prohibited place, and may detain any such person for the purpose of searching him;

Provided that no female shall be searched in pursuance of this sub-rule except by a female.

(4) If any person is in a prohibited place in contravention of this rule, then, without prejudice to any other proceedings which may be taken against him, he may be removed therefrom by any police officer or by any other person authorised in this behalf by the Central Government.

(5) If any person is in a prohibited place in contravention of any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

7. *Protected places*.—If the Central Government or the Provincial Government considers it necessary or expedient that special precautions should be taken to prevent the entry of unauthorised persons into any place, that Government may, by notified order declare the place to be a

protected place ; and thereupon the provisions of rule 6 and of the Indian Official Secrets Act, 1923, shall have effect *in relation to such place*¹ as if references therein to a prohibited place and the Central Government were construed as references to a protected place and the Government making the declaration.

8. *Protected areas.*—(1) If the Central Government or the Provincial Government considers it necessary or expedient to regulate the entry of persons into any area, that Government may, without prejudice to the provisions of any other rule, by notified order declare the area to be a protected area ; and thereupon, for so long as the order is in force, such area shall be a protected area for the purposes of these Rules.

(2) On and after such day as may be specified in, and subject to any exemptions for which provision may be made by an order made under sub-rule (1), no person who was not at the beginning of the said day resident in the area declared to be a protected area by the said order shall be therein except in accordance with the terms of a permit in writing granted to him by an authority or person specified in the said order.

(3) If any person is in a protected area in contravention of the provisions of this rule, then, without prejudice to any other proceedings which may be taken against him, he may be removed therefrom by or under the direction of any police officer or any member of His Majesty's forces on duty in the protected area.

(4) If any person is in a protected area in contravention of any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

9. *Orders for certain places and areas.*—(1) Without prejudice to the provisions of any other rule, the Central Government, as respects—

- (a) any prohibited place, or
- (b) any place declared by it to be a protected place or protected area, or
- (c) any other place or area in relation to which it appears to the Central Government to be necessary to take special precautions owing to the presence therein or in the vicinity thereof² of members of His Majesty's forces or of munitions of war,

and the Provincial Government as respects any place or area declared by it to be a protected place or protected area, may make orders for controlling or regulating, the admission of persons thereto, and the conduct of persons therein.

(2) Without prejudice to the generality of the foregoing provisions, orders made under sub-rule (1) in relation to any place or area, may make provision—

- (a) for restricting the admission of persons to such place or area and for removing therefrom any person who is therein

¹ Substituted by Notification No. 256 O. R./39, dated the 23rd October 1939.

² Inserted by Notification No. 482-O. R./40, dated the 10th August 1940.

in contravention of the orders or who has been convicted of—

- (i) any contravention of the provisions of these Rules, or
- (ii) any offence against public order or decency ;
- (b) for requiring the presence of any person or class of persons in such place or area to be notified to a prescribed authority and for requiring any person who has been convicted of any such offence as is mentioned in clause (a) of this sub-rule to report his movements while in such place or area and to observe any other condition imposed upon him by a prescribed authority ;
- (c) for requiring any person or class of persons in such place or area to carry such documentary evidence of identity as may be prescribed ;
- (d) for prohibiting any person or class of persons from being in possession or control of any prescribed article.
- (3) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

10. Trespassing on certain premises.—(1) No person shall—

- (a) unlawfully enter or board any vehicle, vessel or aircraft used or appropriated for any of the purposes of His Majesty's service, or trespass on premises in the vicinity of any such vehicle, vessel or aircraft, or
- (b) trespass on, or on premises in the vicinity of, any premises used or appropriated for any of the purposes of His Majesty's service or for defence against, or protection from, an enemy.

(2) If any person is found trespassing on any premises in contravention of the provisions of sub-rule (1) or is found on any vehicle, vessel or aircraft which he has entered or boarded without lawful authority, he may, without prejudice to any other proceedings which may be taken against him, be removed from such premises, vehicle, vessel or aircraft, as the case may be, by any police officer or any other person acting on behalf of Government, or by the person occupying the premises or being in charge of the vehicle, vessel or aircraft, or any person authorised by him.

(3) No person shall, for any purpose prejudicial to the public safety or to the defence of British India, be in, or in the vicinity of, any such premises or any such vehicle, vessel or aircraft as are referred to in sub-rule (1) ; and where, in any proceedings taken against a person by virtue of this sub-rule, it is proved that at the material time he was present in, or in the vicinity of, the premises, vehicle, vessel or aircraft concerned, the prosecution may thereupon adduce such evidence of the character of that person (including evidence of his having been previously convicted of any offence) as tends to show that he was so present for a purpose prejudicial to the public safety or to the defence of British India.

(4) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend in the case of a contravention of sub-rule (3) to seven years and in any other case to three years, and shall also be liable to fine.

11. Loitering near certain premises.—(1) No person loitering in the vicinity of any prohibited place or protected place or of any such premises, vehicle, vessel, or aircraft as are referred to in sub-rule (1) of rule 10 shall continue to loiter in that vicinity after being ordered to leave it by any police officer or any other person acting on behalf of Government, or by the person in occupation of the said premises or being in charge of the said vehicle, vessel or aircraft, or any person authorised by him.

(2) If any person contravenes the provisions of sub-rule (1), he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

12. Power to close roads, etc.—(1) The Central Government or the Provincial Government may, by order, prohibit or restrict for such period as may be specified in the order,—

(a) the use of any road, pathway or waterway ;

(b) the passage of any person, animal or vehicle over any land.

(2) If any person contravenes any order made under sub-rule (1), he shall be punishable with imprisonment for a term which may extend to six months and shall also be liable to fine.

PART III.

CONTROL OF SIGNALLING TELEGRAPHY, POSTAL COMMUNICATIONS ETC.

13. Prohibition of signalling.—(1) Save as hereinafter provided, no person shall make any signal, either visually or otherwise, in such circumstances as show that the signal—

(a) is intended to be received by a person on board a vessel at sea or an aircraft in flight, or

(b) being made from a vessel at sea or an aircraft in flight, is intended to be received by a person not on board such vessel or aircraft, or

(c) being made in an area notified by the Central Government in this behalf, is intended to be received by a person outside the external land frontiers of British India :

Provided that the preceding prohibitions shall not apply to the making of any signal with permission granted by or on behalf of the Central Government, or of any signal for the purpose only of saving life, or of regulating or aiding the navigation, on the water or in the air, of any vessel or aircraft other than a vessel or aircraft being used in the service of a State at war with his Majesty.

(2) No person shall make any signal, either visually or otherwise, intending or knowing it to be likely that the signal may mislead any member of His Majesty's forces or any other public servant, acting in the course of his duty as such member or public servant.

(3) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

14. Control of signalling apparatus.—(1) Subject to the provisions of sub-rule (2) and to any exemptions for which provision may be made by general or special order of the Central Government, no person

¹. Substituted by Notification No. 16-O. R. /39, dated the 10th August 1940.

shall, except with permission granted by the Central Government, use or have in his possession or under his control any apparatus or contrivance for signalling (whether visually or otherwise) which is of such a nature that it could be used for a purpose prejudicial to the efficient prosecution of war and to the defence of British India.

(2) Nothing in sub-rule (1) shall apply in relation to—

(a) any wireless telegraphy apparatus as defined in the Indian Wireless Telegraphy Act, 1933, or

(b) any apparatus forming part of the equipment of any vessel or aircraft, being an apparatus which is required by law to be carried therein, or which is required for the making of any such signal as is mentioned in the proviso to sub-rule (1) of rule 13¹.

(3) In any proceedings arising out of an alleged contravention of any of the provisions of this rule, it shall be a defence for the accused to prove that at the date of the alleged contravention, application had been made by him for the first time for the necessary permission in relation to the apparatus or contrivance in respect of which the proceedings are taken, and that the application was still pending at that date.

(4) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

15. Control of land-marks, etc.—(1) In any area notified in this behalf by the Central Government, the Central Government may, if in the opinion of the Central Government, it is necessary or expedient for the efficient prosecution of the war or the defence of British India,—

(a) by general or special order prohibit the use, display or possession of any article which is intended to serve or to be used, or, in the opinion of the Central Government, is capable of serving or of being used, as a land-mark or as a means of transmitting or conveying in any way any message or information to the enemy ;

(b) by order direct the person having control of any such article as aforesaid to remove it, or to take such other action in relation to it as may be specified in the order ;

(c) seize and remove any such article as aforesaid or take such other action in relation to it as may seem expedient to the Central Government.

(2) If any person contravenes any order made under any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

16. Wireless Telegraphy, etc.—(1) Notwithstanding anything contained in the Indian Wireless Telegraphy Act, 1933, or in the rules made thereunder,—

(a) the Central Government may, by general or special order, prohibit or regulate the use of any wireless telegraphy apparatus as defined in that Act, and

(b) the authority mentioned in section 5 of that Act may refuse to grant a licence under that section and may at any time revoke a licence granted under that section.

¹ Added by Notification No. 368-O. R. /40, dated the 10th August 1940.

(2) If any apparatus is used in contravention of an order made under clause (a) of sub-rule (1), any person so using the apparatus, and the occupier of the premises on which the apparatus is situated, or where the apparatus is on board any vessel or aircraft, the master of the vessel or the pilot of the aircraft, as the case may be, shall each be deemed to have contravened the order :

Provided that, in any proceedings which, by virtue of the provisions of this sub-rule, are taken against any person in respect of the use of any apparatus by some other person in contravention of an order under sub-rule (1), it shall be a defence for the accused to prove that the apparatus was so used without his permission and that he exercised all due diligence to prevent any contravention of the order.

(3) Any member of His Majesty's forces or any other person authorised in this behalf by the Central Government may, in relation to any vessel or aircraft, take such steps, and use such force, as may appear to that member or person to be necessary for securing compliance with any order made under clause (a) of sub-rule (1) or, where a contravention of such an order has occurred, for enabling proceedings in respect of the contravention to be taken.

(4) If any person, whose application for a licence has been refused or whose licence has been removed under clause (b) of sub-rule (1), thereafter has in his possession any wireless telegraphy apparatus, he shall be deemed to have contravened the provisions of this rule.

(5) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

17. Control of telephones and telegraphs.—(1) The Director-General, Posts and Telegraphs, or any person authorised by him in this behalf, may by order—

(a) direct—

(i) that any public telephone call office shall be closed to the public for such period as may be specified ;

(ii) that any subscriber's telephone connexion to any exchange shall be cut off for such period as may be specified ;

(iii) that any person empowered by him in this behalf by order in writing may listen in to all conversations or any specified conversation over any telephonic system ;

(b) make provision for suspending or regulating the use otherwise than for Government purposes, of any telegraph or telephone service in any area specified in the order ;

(c) assume the control or direction, or direct any person to assume the control or direction, of any private telephone exchange or any connexion with any such exchange.

(2) If any person contravenes any order made under the provisions of sub-rule (1), he shall be punishable with imprisonment for a term which may extend to six months and shall also be liable to fine.

18. Power to detain or paraphrase telegrams—Notwithstanding anything contained in sub-section (1) of section 5 of the Indian Telegraph Act, 1885, any person appointed by the Central Government to be a censor may—

(a) order that any telegraphic message or class of messages to or from any person or class of persons, or relating to any particular subject, brought for transmission by, or transmitted or received by, any telegraph, shall not be transmitted or shall be intercepted or detained or shall be disclosed to the censor or to any other officer of Government mentioned in the order ;

(b) paraphrase the wording of any telegraphic message suspected of conveying a secret meaning and order the transmission of the message as so paraphrased.

19. Possession and use of means of secret communication.—

(1) Subject to any exemptions or conditions for which provision may be made by order of the Central Government, no person shall, except with permission granted by the Central Government, send or convey by post or otherwise from any place in British India to any destination outside India, or to any destination in British India from any place outside India,—

(a) any instructions for utilising any means of secretly conveying, receiving or recording information, including any cipher or code ; or

(b) any substance or article manufactured or designed for the purpose of secretly conveying, receiving or recording information ; or

(c) any document or other article secretly conveying or recording any information.

(2) The Central Government may, in respect of any area, by notified order declare that it is expedient to control the use of means of secret communication therein, and thereupon the provisions of sub-rule (1) shall apply in relation to that area as they apply in relation to a destination or place outside India.

(3) Any person who has in his possession or under his control any such instructions, substance, document or other article as is mentioned in sub-rule (1) shall, if required by the Central Government by a written order so to do, deliver up those instructions, or that substance, document or other article to such authority or person as may be specified in the order.

(4) Nothing in sub-rule (3) shall be taken to prevent the prosecution of any person in respect of a contravention of the provisions of sub-rule (1).

(5) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

20. Control of postal communications.—(1) For the purposes of this rule and of rule 21, the expression "postal article" includes a letter, post card, newspaper, book, pattern of sample packet, parcel and every article or thing transmissible by post, and a money order ;

(2) The Central Government may, by general or special order, either generally, or with reference to any particular place within or without British India, prohibit, regulate, restrict or impose conditions upon the receipt or transmission in, or despatch from, British India of any postal article or of any class or description of postal articles.

(3) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

21. Power to intercept and censor postal articles.—(1) Notwithstanding anything contained in section 26 of the Indian Post Office Act, 1898, any person appointed by the Central Government to be a censor may—

- (a) order that any postal article, or class or description of postal articles in course of transmission by post shall be intercepted or detained or shall be disposed of in such manner as the censor may direct ;
- (b) open and examine the contents of any postal article, and delete, destroy or remove any part thereof which the censor considers to be prejudicial to the public safety or interest or to the defence of British India or the efficient prosecution of war.

(2) Any person who delivers any postal article for transmission, either, by an indirect route or otherwise, in such a manner as is calculated to evade examination by a censor, shall be punishable with imprisonment which may extend to five years and shall also be liable to fine.

22. Power to prohibit, and to search, etc., travellers conveying, non-postal correspondence.—(1) In this rule,—

- (a) "appropriate officer" means any officer of Customs, any police officer not below the rank of Sub-Inspector, or any other officer designated in this behalf by the Central Government ;
- (b) "photograph" includes any photographic plate, photographic film or other sensitised article which has been exposed in a camera whether such plate, film or other article has been developed or not.

(2) The Central Government may, by order, make provision for securing that, subject to any exemptions for which provision may be made by the order, and except in accordance with such conditions as may be contained therein, no document, pictorial representation, photograph or other article whatsoever recording information shall be sent or conveyed, otherwise than by post, into or from British India.

(3) No person shall have any article in his possession for the purpose of sending or conveying it in contravention of an order made under sub-rule (2).

(4) Any person who, on any occasion, is about to leave British India or arrives in British India (which person is hereafter in this rule referred to as "the traveller") shall, if on that occasion he is ordered so to do by the appropriate officer,—

- (a) declare whether or not he has with him any such article as is mentioned in sub-rule (2), and
- (b) deliver to the appropriate officer any such article as aforesaid which he has with him ;

and the appropriate officer, and any person acting under his directions may—

- (i) examine or search any vessel, vehicle or other means of convey-

- ence which the traveller has been employing, and¹ any article which the traveller has with him for the purpose of ascertaining whether he is conveying or has in his possession any article in contravention of the provisions of this rule;
- (ii) if he has reasonable ground for suspecting that the traveller has any article about his person in contravention of the provisions of this rule, search the person of the traveller;
 - (iii) seize any article delivered under this sub-rule or found upon examination or search under this sub-rule, being an article as to which he has reasonable ground for suspecting that it is being sent or conveyed in contravention of the provisions of this rule;
 - (iv)¹ if he has reasonable ground for suspecting that the traveller or any other person has contravened or is contravening the provisions of this rule, arrest that person;

Provided that no female shall be searched in pursuance of the provisions of this sub-rule except by a female.

(5) Where, at any place in British India, any person is on any occasion found in circumstances in which it is reasonable to suppose that on that occasion he has communicated, or intends to communicate, at that place with a person about to leave, or arriving in, British India, the provisions of sub-rule (4) shall apply in relation to the person so found, as they apply in relation to a person about to leave British India.

(6) Where there is declared or delivered on an order made under this rule, or discovered upon an examination or search so made, any article which the appropriate officer suspects to record any information, he may take such steps (including the subjection of the article to any process) as may be reasonably necessary for ascertaining whether the article does or does not record that information.

(7) If, upon his being ordered to make a declaration or deliver any article under the provisions of sub-rule (4), any person knowingly makes a declaration which is false, or not true, or fails to deliver such article, he shall be deemed to have contravened the provisions of this rule.

(8) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

(9) Anything seized in pursuance of the provisions of this rule shall be disposed of in such manner as the Central Government may by general or special order direct.

PART IV.

RESTRICTION OF MOVEMENTS AND ACTIVITIES OF PERSONS.

23. Entering enemy territory.—(1) No person shall, without the permission of the Central Government, voluntarily enter any enemy territory or voluntarily go on board any vessel or aircraft being used in the service of a State at war with His Majesty.

(2) If any person contravenes this rule, he shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

¹ Inserted by Notification No 375-O. R./40, dated the 16th November 1940.

24. Entering British India.—(1) The Central Government may, by order, make provision for securing that, subject to such exemptions as may be provided for in the order, any person or class of persons shall not, on coming from a place outside India, enter British India elsewhere than at such place as may be specified in the order.

(2) If any person enters British India in contravention of any order made under sub-rule (1), or of the provisions of, or of any rule or order made under, the Indian Passport Act, 1920, he shall, without prejudice to any other proceedings which may be taken against him, be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

(3) The master of any vessel or the pilot of any aircraft by means of which any person enters British India in contravention of any order made under sub-rule (1) or of the provisions of, or of any rule or order made under, the Indian Passport Act, 1920, shall, unless he proves that he exercised all due diligence to prevent the said contravention, be deemed to have abetted the contravention.

25. Leaving British India.—(1) The Central Government may, by order, make provision for securing that, subject to such exemptions as may be provided for in the order, any person or class of persons shall not—

(a) proceed from British India to a destination outside India except under the authority of a written permit granted in such form and manner and by such authority or person as may be specified in the order;

(b) for the purpose of proceeding to a destination outside India, leave British India elsewhere than at such place as may be specified in the order.

(2) Where any police officer not below the rank of Inspector, or any other public servant authorised in this behalf by the Central Government, has reason to suspect that any person who is about to depart from British India, is attempting so to depart for purposes prejudicial to the public safety or to the defence of British India, he may, notwithstanding the fact that such departure does not contravene any order made under sub-rule (1), prevent the departure of that person.

(3) Any police officer or other public servant who prevents the departure of any person under sub-rule (2) shall forthwith report the fact of such prevention to the Central Government, and the Central Government may, if it thinks fit, by order, prohibit such person at any time subsequently from leaving British India so long as the order is in force.

(4) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

(5) The master of any vessel or the pilot of any aircraft by means of which any person leaves British India in contravention of any order made under this rule shall, unless he proves that he exercised all due diligence to prevent the said contravention, be deemed to have abetted the contravention.

26. Restriction of movements of suspected persons, restriction orders and detention orders.—(1) [The Central Government of the Provin-

cial Government, if it is satisfied with respect to any particular person that with a view to preventing him from acting in any manner prejudicial to the defence of British India, the public safety, the maintenance of public order, *His Majesty's relations with foreign powers or Indian States, the maintenance of peaceful conditions in triable areas*¹ or the efficient prosecution of the war it is necessary so to do, may make an order]

- (a) directing such person to remove himself from British India in such manner, by such time and by such route as may be specified in the order, and prohibiting his return to British India;
- (b) directing that he be detained;
- (c) directing that, except in so far as he may be permitted by the provisions of the order, or by such authority or person as may be specified therein, he shall not be in any such area or place in British India as may be specified in the order;
- (d) requiring him to reside or remain in such place or within such area in British India as may be specified in the order;
- (e) requiring him to notify his movements in such manner at such times and to such authority or person as may be specified in the order;
- (f) imposing upon him such restrictions as may be specified in the order in respect of his employment or business, in respect of his association or communication with other persons, and in respect of his activities in relation to the dissemination of news or propagation of opinions;
- (g) prohibiting or restricting the possession, or use by, him of any such article or articles as may be specified in the order;
- (h)³ otherwise regulating his conduct in such particular as may be specified in the order:

Provided that no order shall be made under clause (a) of this sub-rule in respect of any British Indian subject of His Majesty.

Provided further that no order shall be made by the Provincial Government under clause (c) of this sub-rule directing that any person ordinarily resident in the Province shall not be in the Province.

(2)⁴

(3) An order made under sub-rule (1) * * * may require the person in respect of whom it is made to enter into a bond with or without sureties for the due performance of, or as an alternative to the enforcement of, such restrictions or conditions made in the order as may be, specified in the order.

(4) If any person is in any area or place in contravention of an order made under the provisions of this rule, or fails to leave any area or place

¹ Inserted by Notification No. 534-O.R./40, dated the 3rd August 1940.

² Substituted by Notification No. 356-O. R. /40, dated the 28th March 1940.

³ Inserted by Notification No. 356-O.-R./1/40, dated the 22nd June 1940.

⁴ Omitted by Notification No. 356-O. R./40, dated the 28th March 1940.

in accordance with the requirements of such an order, then, without prejudice to the provisions of sub-rule (6), he may be removed from such area or place by any police officer or by any person acting on behalf of Government.

(5) So long as there is in force in respect of any person such an order as aforesaid directing that he be detained he shall be liable to be detained in such place, and under such conditions *as to maintenance, discipline and the punishment of offences and breaches of discipline*¹ as the Central Government or the Provincial Government, as the case may be, may, from time to time determine.

(5A)¹ Where the power to determine the place of detention is exercisable by the Provincial Government, the power of the Provincial Government shall include power to determine a place of detention outside the Province :

Provided that—

(a) no such place shall be determined save with the previous consent of the Provincial Government of the Province in which the place is situate, or, where the place is situate in a Chief Commissioner's Province, of the Central Government ;

(b) the power to determine the conditions of detention shall be exercised by the Provincial Government of the Province in which the place is situate, or, where the place is situate in a Chief Commissioner's Province, by the Central Government.

“(5B)² If the Central Government or the Provincial Government, as the case may be, has reason to believe that a person in respect of whom that Government has made an order under sub-rule (1) directing that he be detained has absconded or is concealing himself so that such order cannot be executed, that Government may make a report in writing of the facts to a Presidency Magistrate or a Magistrate of the first class having jurisdiction in the place where the said person ordinarily resides ; and thereupon the provisions of sections 87, 88 and 89 of the Code of Criminal Procedure, 1898, shall apply in respect of the said person and his property as if the order directing that he be detained were a warrant issued by the Magistrate.”

(6) If any person contravenes the provisions of any order made under this rule, he shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine, and if such person has entered into a bond in pursuance of the provisions of sub-rule (3), his bond shall be forfeited, and any person bound thereby shall pay the penalty thereof, or show cause to the satisfaction of the convicting Court why such penalty should not be paid.

27. Powers of photographing, etc., suspected persons.—(1) The Central Government or, as the case may be, the Provincial Government may, by order, direct that any person in respect of whom an order has been made by that Government under the provisions of rule 26, shall—

¹ Inserted by Notification No. 527-O. R./40, dated the 31st August 1940.

² Inserted by Notification No. 580-O. R./40, dated the 23rd October 1940.

- (a) allow himself to be photographed ;
 - (b) allow his finger and thumb impressions to be taken ;
 - (c) furnish specimens of his handwriting and signature ; and
 - (d) attend at such time and place before such authority or person as may be specified in the order for all or any of the purposes mentioned in this sub-rule.
- (2) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to six months and shall also be liable to fine.

28. Prisoners of war, etc.—The Central Government may, by order, make provision—

- (a) for regulating access to, and the conduct of persons in, places in British India where prisoners of war are detained, and for prohibiting or regulating the despatch or conveyance, from outside such places to or for prisoners of war therein, of any such articles as may be specified in the order ;
 - (b) for regulating the conditions to be observed in connexion with the employment and maintenance of prisoners of war in British India while elsewhere than in places for the detention of prisoners of war.
- (2) The provisions of sub-rule (1) and of sections 128, 129 and 130 of the Indian Penal Code shall apply in relation to a person detained or confined by order made under clause (b) of sub-rule (1) of rule 26 or clause (g) of sub-rule (2) of rule 31 as they apply in relation to a prisoner of war.
- (3) No proceedings shall be taken, by virtue of this rule, against a person in respect of any act done by him when he is himself a prisoner of war.

(4) If any person contravenes any order made under the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

29. Change of name by British subjects.—(1) For the purposes of this rule,—

- (a) the expression "name" shall be construed as including a surname, and
 - (b) a name shall be deemed to be changed if the spelling thereof is altered.
- (2) No British subject who is in British India on the day on which the Ordinance came into force shall, while in British India at any time after that day, assume or use or purport to assume or use for any purpose any name other than that by which he was ordinarily known immediately before the said day, unless, at least one month before the day on which he first assumes or uses or purports to assume or use that other name, he has given to the Provincial Government a notice specifying—

- (a) his existing name in full and the change which he proposes to make in it, and
 - (b) the address of his place of residence or place of abode, if any, in British India,
- and has complied with such orders in respect of such notice, including orders for giving public intimation of his intention to change his name, as the Provincial Government may give.

(3) In relation to any British subject who, not having been in British India on the day on which the Ordinance came into force, thereafter enters British India, sub-rule (2) shall have effect as if for any reference in that sub-rule to the said day there were substituted a reference to the day on which he first enters British India after the day on which the Ordinance came into force.

(4) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to two years and shall also be liable to fine.

(5) Nothing in this rule shall apply to the assumption or use—

- (a) by any married woman of her husband's name;
- (b) of any name in pursuance of a Royal licence, or in consequence of the grant of, or succession to, any rank or title;
- (c) of any name in such circumstances, as may be specified by order of the Provincial Government.

PART V.

RESTRICTIONS ON FOREIGNERS.

30. Definition.—For the purposes of this Part the expression "foreigner" means a foreigner as defined in the Foreigners Act, 1864, but does not include—

- (i) any ruler or subject of an Indian State;
- (ii) any native of the tribal areas.

31. Power to impose restrictions on foreigners.—(1) If in the opinion of the Central Government it is necessary for the defence of British India, the efficient prosecution of the war or the public safety or interest so to do, the Central Government may, by order, make provision, either generally with respect to all foreigners or with respect to such foreigner or class of foreigners as may be specified in the order, for all or any of the following purposes, that is to say,—

- (a) for prohibiting, regulating or restricting the entry of foreigners into British India or their departure therefrom or their continuance therein;
- (b) for regulating or restricting the liberty of foreigners residing or being in British India.

(2) In particular and without prejudice to the generality of the foregoing power, an order made under the provisions of sub-rule (1) may provide that a foreigner, or class of foreigners, or all foreigners generally,—

- (a) shall not enter British India, or shall enter British India only within such period and by such route or by such port or place and subject to the observance of such conditions on landing or arriving at any place in British India as may be specified in the order;
- (b) shall not depart from British India, or shall depart only within such period and by such route or from such port or place and subject to the observance of such conditions on departing as may be specified in the order;
- (c) shall not remain in British India, or in such area therein as may be specified in the order;
- (d) shall remove themselves to and remain in any such area in British India, as may be specified in the order;

(e) entering into or residing or being in British India or any specified area in British India shall comply with any conditions specified in the order—

- (i) requiring them to reside in a particular place ;
 - (ii) imposing any restrictions on their movements ;
 - (iii) requiring them to furnish proof of their identity and such other particulars, including photographs, specimens of handwriting and signature, and finger and thumb impressions, as may be specified in the order ;
 - (iv) prohibiting them from association with persons of such description as may be specified in the order ;
 - (v) prohibiting them from engaging in activities of such description as may be specified in the order ;
 - (vi) prohibiting them from using or possessing such articles as may be specified in the order ;
 - (vii) otherwise regulating their conduct in any particular ;
- (f) shall enter into a bond with or without sureties for the due observance of, or as an alternative to the enforcement of, any or all of the restrictions or conditions specified in the order ;
- (g) shall be arrested and detained or confined.

(3) So long as there is in force in respect of any foreigner such an order as aforesaid directing that he be detained or confined, he shall be liable to be detained or confined in such place, and under such conditions, as the Central Government may from time to time determine.

(4) The Central Government may, by order, exempt any class or description of foreigners or any individual foreigner either absolutely or conditionally from all or any of the provisions of any order made under this rule.

(5) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine : and if such person has entered into a bond in pursuance of an order made under clause (f) of sub-rule (2), his bond shall be forfeited, and any person bound thereby shall pay the penalty thereof, or show cause to the satisfaction of the convicting Court why such penalty should not be paid.

(6) If any question arises in any proceedings under this rule or with reference to anything done or proposed to be done in pursuance of any order made under this rule whether any person is or is not a foreigner, or is or is not a foreigner of a particular class or description, the onus of proving that that person is not a foreigner or, as the case may be, is not a foreigner of that class or description shall lie upon that person.

(7)¹ The provisions of this rule shall be in addition to, and not in derogation of, the provisions of the Foreigners Ordinance, 1939.

31.A²

32. Obligations of masters of vessels, etc.—(1) A District Magistrate, or any other Magistrate authorised by the District Magistrate in this behalf, a Commissioner, Superintendent or District Superintendent

¹ Inserted by Notification No. 292-O.R./39, dated the 5th December 1939.

² Inserted by Notification No. 292-O.R./39, dated the 5th December 1939 and omitted by Notification No. 365-O.R./40, dated the 6th July 1940.

of Police or any other police officer not below the rank of a Sub-Inspector authorised by the Commissioner, Superintendent or District Superintendent of Police in this behalf, may, for any purpose connected with the enforcement of the provisions of rule 31, enter with such assistance as he may think fit any vessel or aircraft at any port or place in British India and may—

(a) order the master of the vessel or the pilot of the aircraft, as the case may be,—

(i) before allowing any passenger to disembark, to furnish a list in writing of the passengers who are on board or who have been carried on board at any time since the vessel or aircraft commenced its journey, specifying the ports or places at which they embarked, the ports or places of their disembarkation or intended disembarkation, and such other particulars as may be required by order of the Central Government made in pursuance of this rule ;

(ii) to answer to the best of his ability any question relating to the passengers who are on board or who have disembarked in any part of British India ;

(b) if any foreigner on board such vessel or aircraft does not state his reasons for coming to British India or if his account thereof is not satisfactory, either—

(i) refuse to allow such foreigner to disembark from such vessel or aircraft, or

(ii) place him under such restraint as may be specified by the Central Government in this behalf.

(2) If the master of any vessel or the pilot of any aircraft wilfully makes any false report or gives any false answer in respect of any matter as to which he is ordered under this rule to make a report or furnish an answer, or wilfully neglects or refuses to comply with the provisions of this rule or of any order given in pursuance thereof, he shall be punishable with imprisonment for a term which may extend to one year and shall also be liable to fine.

33. Change of name by foreigners.—(1) For the purposes of this rule,—

(a) the expression “ name ” shall be construed as including a surname, and

(b) a name shall be deemed to be changed if the spelling thereof is altered.

(2) No foreigner who is in British India on the day on which the Ordinance came into force shall, while in British India at any time after that day, assume or use or purport to assume or use for any purpose any name other than that by which he was ordinarily known immediately before the said day.

(3) Where, after the day on which the Ordinance came into force, any foreigner carries on or purports to carry on (whether alone or in association with any other person) any trade or business under any name or style other than that under which that trade or business was being carried on immediately before the said day, he shall, for the purposes of sub-rule (2), be deemed to be using a name other than that by which he was ordinarily known immediately before the said day.

(4) In relation to any foreigner who, not having been in British India on the day on which the Ordinance came into force, thereafter enters British India, sub-rules (2) and (3) shall have effect as if for any reference in those sub-rules to the said day there were substituted a reference to the day on which he first enters British India after the day on which the Ordinance came into force.

(5) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment which may extend to five years and shall also be liable to fine.

(6) Nothing in this rule shall apply to the assumption or use—

(a) by any married woman of her husband's name; or

(b) of any name in pursuance of a Royal licence.

PART VI.

PREVENTION OF PREJUDICIAL ACTS AND CONTROL OF INFORMATION.

34. *Definitions.*—In this Part, unless there is anything repugnant in the subject or context,—

(1) "*Cinematograph film*".—"Cinematograph film" includes a sound track, and any other article on which sounds have been recorded for the purpose of their being produced in connection with the exhibition of a film;

(2) "*Confidential information*".—"Confidential information" includes any information, whether true or false, or any document or other record whatsoever containing or purporting to contain, or calculated directly or indirectly to convey, any information, whether true or false, with respect to any of the following matters, that is to say,—

(a) the proceedings of any meeting of the Executive Council of the Governor-General;

(b) the proceedings of any committee, commissions, conference, convention or delegation appointed by His Majesty or appointed or convened by, or at the invitation of, the Central Government or either Chamber of the Indian Legislature to deal with matters concerning the prosecution of war, the making of peace or the proposed constitution for the government of any territory affected by the war or by the conditions of peace;

(c) the contents of any secret or confidential document belonging to, or the contents of any document which has in confidence been communicated by, or any confidential information obtained from, Government or any person in the service of His Majesty and relating to any of the aforesaid matters;

(3) "*Essential commodity*".—"Essential commodity" means food, water, fuel, light, power or any other thing essential for the existence of the community which is notified in this behalf by Government;

(4) "*Exhibit*" and "*Exhibition*".—"Exhibit" and "exhibition" and their grammatical variations include, in relation to a cinematograph film, the mechanical or electrical reproduction of any sounds in connexion with the showing of the film;

(5) "*Information likely to assist the enemy*".—"Information likely to assist the enemy" means any information, whether true or false, or any document or other record whatsoever containing or purporting to contain, or calculated, directly or indirectly, to convey, any information,

whether true or false, with respect to any of the following matters, that is to say,—

- (a) the number, description, armament, equipment, disposition, movement, sympathies, or condition of any of His Majesty's forces, vessels or aircraft ;
 - (b) any operations or projected operations of any of His Majesty's forces, vessels or aircraft ;
 - (c) any measures, works, appliances or arrangements for, or connected with, or intended for, the defence or fortification or any place by or on behalf of His Majesty's forces ;
 - (d) the number, description or location of any prisoners of war ;
 - (e) any enemy agents, that is to say, persons engaged in or believed to be engaged in assisting the enemy ;
 - (f) the condition of His Majesty's subjects or of any class thereof or the sympathies of such subjects or class as regards matters relating to the war ;
 - (g) the invention, manufacture, quantity, supply, description, condition, disposition, movement, storage, repair, testing, trial or use of any munitions of war or other thing which can be used in connection with the prosecution of the war ;
 - (h) any measures, works, appliances or arrangements for or connected with, or intended for, the protection of any munitions of war or other thing which can be used in connection with the prosecution of the war ;
 - (i) any arrangements relating to the collection of means of transport or for the protection of—
 - (i) transport or communications, or
 - (ii) the supply or distribution of any essential commodity ;
 - (j) any prohibited place, protected place or protected area, or any person or thing in, or relating to, any such place or area or anything used in, or done or proposed to be done in, or in relation to, any such place or area ;
 - (k) the passage of any vessel or aircraft near or over any part of India ;
 - (l) any losses or casualties incurred by persons in the service of His Majesty, or the number or description of any such persons returning to the active service of His Majesty after casualty, or any injury or damage caused, whether by hostile operations or otherwise, to any of His Majesty's vessels or aircraft, or to any prohibited place, protected place or protected area, or to any person or thing in any such place or area, or to any munitions of war, or any injury or damage caused by hostile operations to any other person or thing whatsoever ;
 - (m) any cipher, code or secret or official codeword or pass-word ;
 - (n) any orders, instructions or regulations regarding, or connected with, any of the aforesaid matters ;
 - (o) any other matter whatsoever information as to which would or might be, directly or indirectly, useful to the enemy ;
- (c) "*Prejudicial act.*"—"Prejudicial act" means any act which is intended or is likely—

- (a)¹ to prejudice His Majesty's relations with any Indian State or with any foreign power, or the maintenance of peaceful conditions in any tribal areas ;
- (b) to cause disaffection among, or to prejudice, prevent or interfere with the discipline, health or training of, or the performance of their duties by, members of His Majesty's forces or public servants ;
- (c) to render any member of His Majesty's forces or any public servant incapable of efficiently performing his duties as such, or to induce any member of His Majesty's forces or any public servant to fail in the performance of his duties as such ;
- (d) to prejudice the recruiting of, or the attendance of persons for service in, any of His Majesty's forces or any police force or fire brigade or any other body of persons entered, enrolled or engaged as public servants ;
- (e) to bring into hatred or contempt, or to excite disaffection towards, His Majesty or the Crown Representative or the Government established by law in British India or in any other part of His Majesty's dominions ;
- (f) to promote feelings of enmity and hatred between different classes of His Majesty's subjects ;
- (g) to cause fear or alarm to the public or to any section of the public ;
- (h) to impede, delay or restrict the means of transport or locomotion, any work necessary for the efficient prosecution of the war, the production, handling or transport of any munitions of war or the supply or distribution of any essential commodity ;
- (i) to render any munitions of war wholly or partially ineffective or dangerous, or to cause or increase danger to any person using, or engaged upon the production, handling or transport of, any munitions of war ;
- (j) to undermine public confidence in the national credit or in any Government loan or security or in any notes, coins or tokens which are legal tender in India or in any part thereof, or to prejudice the success of any financial measures taken or arrangements made by Government with a view to the efficient prosecution of war ;
- (ji)² to encourage or incite any person or class of persons, or the public generally, to refuse or defer payment of any land revenue, tax, rate, cess or other due or amount payable to Government or any local authority or payable under any law or custom having the force of law for any services rendered to the community ;
- (k) to influence the conduct or attitude of the public or of any section of the public in a manner likely to be prejudicial to

¹ Substituted by Notification No. 424-O. R./39, dated the 18th May 1940.

² Inserted by Notification No. 300-O. R./39, dated the 16th May 1940.

the defence of British India or to the efficient prosecution of war ;

- (l) to instigate directly or indirectly the use of criminal force against public servants generally or any class of public servants or any individual public servants ;
- (m) to instigate or incite directly or indirectly the commission or abetment of an offence punishable under section 121, section 121A, section 122, section 131 or section 436 of the Indian Penal Code, or of the offence of robbery or dacoity ;
- (n) to instigate or incite directly or indirectly the commission or abetment of an offence against, or against any rule made under, the Indian Arms Act, 1878, the Indian Explosives Act, 1884, or the Explosive Substances Act, 1908 ;
- (o) to instigate or incite directly or indirectly the commission or abetment of an offence against section 27 of the Indian Army Act, 1911, section 35 of the Indian Air Force Act, 1932, or sections 10 to 16 (both inclusive) of the *Naval Discipline Act as set forth in the first Schedule to the Indian Navy (Discipline) Act, 1934* ;
- (p) otherwise to prejudice the efficient prosecution of the war and the defence of British India, or the public safety or interest ;
- (7) "*Prejudicial report.*"—"Prejudicial report" means any report, statement or visible representation, whether true or false, which, or the publishing of which, is, or is an incitement to the commission of, a prejudicial act as defined in this rule ;

(8) "*Unauthorised cinematograph film.*"—"Unauthorised cinematograph film" means a cinematograph film which has not been certified under, or in respect of which a certificate has been suspended under, or in respect of which the Provincial Government has decided that it shall be deemed to be uncertified under, section 7 of the Cinematograph Act, 1918.

35. Sabotage.—(1) No person shall do any act with intent to impair the efficiency or impede the working of, or to cause damage to,—

- (a) any building, vehicle, machinery, apparatus or other property used, or intended to be used, for the purposes of Government ;
- (b) any railway (as defined in the Indian Railways Act, 1890), tramway, road, canal, bridge, culvert, causeway, port, dockyard, lighthouse, aerodrome, or telegraph (as defined in the Indian Telegraph Act, 1885) ;
- (c) any rolling-stock of a railway or tramway, any vessel or aircraft ;
- (d) any building or other property used in connection with the production, distribution or supply of any essential commodity, any sewage works, mine or factory ;
- (e) any prohibited place or protected place.

¹ Inserted by Notification No. 361-O.R./40, dated the 4th March 1940.

The provisions of sub-rule (1) shall apply in relation to any omission on the part of a person to do anything which he is under a duty, either to Government or to any public authority or to any person, to do, as they apply to the doing of any act by a person.

(3) If any person approaches, or is in the neighbourhood of, any such building, place or property as is mentioned in sub-rule (1), in circumstances which afford reason to believe that he intends to contravene that sub-rule, he shall be deemed to have attempted a contravention thereof.

(4) If any person contravenes ^{*1} any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to seven years and shall also be liable to fine.

36. Interference with postal and telegraphic communications.—

(1) No person shall knowingly—

(a) cause interference with the sending or receiving of communications by post, telegraphy (including wireless telegraphy), telephony (including wireless telephony) or television; or

(b) intercept any postal, telegraphic or telephonic communication.

(2) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

37. Communications with persons engaged in assisting the enemy.—(1) No person having reasonable cause to believe that such other person is engaged in assisting the enemy, shall communicate or associate with any other person.

(2) In any proceedings taken by virtue of sub-rule (1), it shall be a defence for the accused to prove that the purpose of the communication or association in question was not prejudicial to the defence of British India, to the efficient prosecution of war or to the public safety.

(3) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

38. Prohibition of prejudicial acts, publications and communications.—(1) No person shall, without lawful authority or excuse,—

(a) do any prejudicial act; or

(b) obtain, collect, record, elicit, make, print or publish, or distribute or communicate by any means whatsoever to any other person, any information likely to assist the enemy; or

(c) make, print, publish or distribute any document containing, or spread by any other means whatsoever, any prejudicial report; or

(d) make, print, produce, publish or distribute any publication containing, or communicate to any person by any means whatsoever, any confidential information.

(2) The author, editor, printer and publisher of, and any person who otherwise makes or produces, any information likely to assist the enemy, any confidential information or any prejudicial report, and any person who distributes or sells any information or report of that nature, knowing it to be of such nature, shall be deemed to have contravened this rule.

(3) Any person who exhibits, or causes or allows to be exhibited, to the public or to any section of the public any unauthorised cinematograph

¹ The word 'this' was omitted by Notification No. 361 O. R./40, dated the 4th March 1940.

film containing any information likely to assist the enemy, any confidential information or any prejudicial report or any reference to or representation of any such information or report and the licensee of any building or other premises licensed under the Cinematograph Act, 1918, for giving exhibitions by means of a cinematograph, and the occupier, or, if there is no occupier, the owner, of any other building, or other premises, in or on which any unauthorised cinematograph film as aforesaid is exhibited shall be deemed to have contravened this rule.

(4) The proprietor, manager or any other person in control of any place in which, and every person who takes part in any public performance of any play, pantomime, drama or recitation in the course of which any confidential information, any information likely to assist the enemy or any prejudicial report is published shall each be deemed to have contravened this rule.

(5) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine :

Provided that in any proceedings arising out of a contravention of this rule,—

(a) in relation to the making or printing of any document or information, it shall be a defence for the accused to prove that the said document or information was made or printed, as the case may be,—

(i) before the Ordinance came into force, or

(ii) with the permission or under the authority of Government, or

(iii) as a proof intended for submission to Government or to a person or authority designated by Government in this behalf with a view to obtaining permission for its publication :

(b) in relation to the publication of any document or information, it shall be a defence for the accused to prove that the said document or information was published—

(i) before the Ordinance came into force, or

(ii) with the permission or under the authority of Government.

39. *Illegal possession of certain information and publications.*—

(1) No person shall, without lawful authority or excuse, have in his possession—

(a) any information likely to assist the enemy or any confidential information ; or

(b) any document containing any prejudicial report ; or

(c) any unauthorised cinematograph film of the nature described in sub-rule (3) of rule 38.

(2)¹ Any person who, without lawful authority or excuse, has on any premises in his occupation or under his control any document containing any information likely to assist the enemy, any confidential information or any prejudicial report shall, unless he proves that he did not know, and had no reason to suspect, that the said document contained any such information or report as aforesaid, or that the said document was on such

¹ Substituted by Notification No. 520-O. R./40, dated the 16th November 1940.

premises without his knowledge or against his consent, be deemed to have contravened this rule.

(3)¹

(4) The licensee of any building or other premises licensed under the Cinematograph Act, 1918, and the occupier, or, if there is no occupier, the owner, of any other building or other premises, in or on which any unauthorised film as aforesaid is found, shall, unless he proves that the said unauthorised film was in or on such building or other premises without his knowledge or against his consent, be deemed to have contravened this rule.

(5) In any proceedings arising out of a contravention of this rule in respect of the possession of any document or information, it shall be a defence for the accused to prove that the said document or information—

(a) was in his possession with the permission or under the authority of Government; or

(b) was a proof prepared by or for him for submission to Government or to a person or authority designated by Government in this behalf, with a view to the obtaining of permission for its publication; or

(c) was published before the Ordinance came into force.

(6) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

40² Proscription, etc., of certain documents.—Where in the opinion of the Central Government or the Provincial Government any document made, printed or published, whether before or after the Ordinance came into force, contains any confidential information, any information likely to assist the enemy or any prejudicial report, that Government may, by order,—

(a) addressed to the editor, printer, publisher or person in possession of such document,—

(i) require to be informed of the name and address of any person concerned in the supply or communication of such information or in the making of such report;

(ii) require the delivery of such document and every copy thereof to an authority specified in the order;

(b) prohibit the further publication, sale or distribution of such document, including, in the case of a newspaper or other periodical the publication, sale or distribution of any subsequent issue thereof;

(c) declare such document and every copy thereof to be forfeited to His Majesty.

(2) Where in pursuance of sub-rule (1) any document is required to be delivered to a specified authority, that authority may enter upon and search any premises whereon or wherein such document or any copy thereof is or is reasonably suspected to be.

(3) Where in pursuance of sub-rule (1) any document has been declared to be forfeited to His Majesty, any police officer may seize any copy thereof, wherever found in British India and any Magistrate may by warrant authorise any police officer not below the rank of Sub-

¹ Omitted by Notification No. 520-O. R /40, dated the 16th November 1940.

² Substituted by Notification No. 347-O.R./40, dated the 14th June 1940.

Inspector to enter upon and search any premises whereon or wherein such document or any copy thereof is or is reasonably suspected to be.

(4) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

(1)¹ The Central Government or the Provincial Government may, for the purpose of securing the defence of British India, the public safety, the maintenance of public order or the efficient prosecution of war, by order addressed to a printer, publisher or editor, or to printers, publishers and editors generally,—

(a) require that all matter, or any matter relating to a particular subject or class of subjects, shall, before being published in any document or class of documents, be submitted for scrutiny to an authority specified in the order ;

(b) prohibit or regulate the printing or publishing of any document or class of documents, or of any matter relating to a particular subject or class of subjects, or the use of any printing press.

(2) If any person contravenes any order made under sub-rule (1), then, without prejudice to any other proceedings which may be taken against such person, the Government making the order¹ may declare to be forfeited to His Majesty every copy of any document published or made in contravention of such order and any printing press or other apparatus used in the making or publication of such document.

(3) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

42. Publication of inventions and designs.—(1) For the purposes of this rule, the expression "Controller" means the Controller of Patents and Designs appointed under the Indian Patents and Designs Act, 1911.

(2) Where, either before or after the coming into force of the Ordinance, an application has been made to the Controller for the grant of a patent or the registration of a design, the Controller, if he is satisfied that it is expedient for the defence of British India or the efficient prosecution of the war so to do, may, notwithstanding anything contained in the Indian Patents and Designs Act, 1911, omit to do or delay the doing of anything which he would otherwise be required to do in relation to the application and by order, prohibit or restrict the publication of information with respect to the subject matter of the application, or the communication of such information to particular persons or classes of persons.

(3) No person shall, except under the authority of a written permit granted by the Controller, make an application for the grant of a patent, or the registration of a design, [in any country or place not included in His Majesty's Dominions and not being an Indian State]².

(4) If, in the opinion of the Central Government, it is necessary or expedient for the defence of British India or the efficient prosecution of the war so to do, the Central Government may by order require any person to

¹ Substituted by Notification No. 583- O. R., dated the 21st October, 1940.

² Substituted by Notification No. 370-O. R./40, dated the 14th March 1940.

furnish to such authority or person as may be specified in the order, any such information in his possession relating to any invention, design or process as may be specified in the order or demanded of him by the said authority or person.

(5) The right of a person to apply for, or to obtain, a patent in respect of an invention, or registration in respect of a design, shall not be prejudiced by reason only of the fact that the invention or design has previously been communicated to an authority or person in compliance with any order given under sub-rule (4), or used by an authority or person in consequence of such communication, and a patent in respect of an invention, or the registration of a design, shall not be held to be invalid by reason only of the fact that the invention or design has been communicated or used as aforesaid.

(6) In connection with the making, use or exercise of any invention or design on behalf of, or for the services of the Crown, (whether by virtue of the Indian Patents and Designs Act, 1911, or otherwise, the Central Government may by order authorise the use of any drawing, model, plan, specification, or other document or information in such manner as appears to the Central Government to be expedient for the defence of British India or the efficient prosecution of the war, notwithstanding anything to the contrary contained in any licence or agreement; and any licence or agreement, if and in so far as it confers on any person, otherwise than for the benefit of the Crown, the right to receive any payment in respect of the use of any document or information in pursuance of such an authorisation, shall be inoperative.

(7) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

43. Control of dramatic performances.—Whenever the Provincial Government is of opinion that any play, pantomime or other drama performed, or about to be performed, in a public place contains any prejudicial report, or is calculated to instigate, the commission of a prejudicial act, it may, by order, prohibit the performance; and thereupon the provisions of sections 4 to 9 of the Dramatic Performances Act, 1876, shall apply in relation to any such performance as they apply in relation to any performance prohibited by the Provincial Government under section 3 of that Act;

Provided that any person who commits in relation to any order made in pursuance of this rule any of the offences specified in sections 4 and 6 of the Dramatic Performances Act, 1876, shall be punishable with imprisonment for a term which may extend to three years and also be liable to fine.

44. Control of cinematographs.—(1) The Central Government or the Provincial Government may by order declare any unauthorised cinematograph film or any cinematograph film which is imported into British India in contravention of any order made under these Rules to be forfeited to Majesty.

(2) Where in pursuance of sub-rule (1) any cinematograph film has been declared to be forfeited to His Majesty, any police officer may seize such film wherever found in British India¹ and any Magistrate may by warrant authorise any police officer not below the rank of sub-inspector to

¹ Inserted by Notification No. 347-O. R./40, dated the 26th February 1940.

enter upon and search any premises whereon or wherein any such film is or is reasonably suspected to be.

45. General control of photography.—(1) Subject to any exemptions for which provision may be made by order of the appropriate Government, no person shall, except under the authority of a written permit granted by or on behalf of that Government,—

- (a) have with him a camera or any material for making a sketch, plan, model or other representation in, or in the vicinity of, any prohibited place, protected place or protected area or any other place or area notified in this behalf by the Central Government, being a place or area in relation to which the restriction of photography or the making of representations¹ appears to that Government to be expedient in the interests of the defence of British India; or
- (b) make any photograph sketch, plan, model or other representation—
 - (i) of a prohibited place, protected place or protected area, of any part of, or object in, any such place or area;
 - (ii) of an object of any such description, as may be specified by order of the Central Government;
 - (iii) of, or of any part of, or object in, any such place or area in British India as may be notified by the Central Government in pursuance of clause (a) of this sub-rule.

(2) in any proceedings arising out of a contravention of clause (a) of sub-rule (1), it shall be a defence for the accused to prove that at the date of the contravention application had been made by him for the first time for the necessary permit in relation to the camera or other article in respect of which the proceedings are taken, and that the application was still pending at that date.

(3) The appropriate Government may, by general or special order, make provision for securing that photographs, sketches, plans and other representations made under the authority of a permit granted in pursuance of sub-rule (1), shall not be published unless and until they have been submitted to, and approved by, such authority or person as may be specified in the order; and may retain, or destroy or otherwise dispose of, anything submitted as aforesaid.

(4) If in, or in the vicinity of, any place or area to which this rule or any notification issued in pursuance of this rule applies, any person is found in possession of a camera or material for making a sketch, plan, model or other representation, then, without prejudice to the provisions of sub-rule (5) or to any other proceedings which may be taken against him, such camera or other material shall be liable to forfeiture.

(5) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.*

(6) In sub-rules (1) and (3), the expression "appropriate Government" means in relation to any place or area declared by the Provincial Government to be a protected place or protected area, that Provincial

¹ Inserted by Notification No. 361-O. R./40, dated the 4th March 1940.

Government, and in relation to any other place or area, the Central Government.

45A¹ Matters required to be disclosed under the Indian Companies Act, 1913.—If the Central Government certifies that the disclosure—

(1) of any matter required by sub-section (1) of section 93 of the Indian Companies Act, 1913, to be stated in a prospectus issued by or on behalf of a company or by or on behalf of any person who is or has been engaged or interested in the formation of the company, or

(2) of the contents of a contract for the inspection of which or of a copy of which a time and place is required by clause (1) of the said sub-section to be stated in the prospectus, would be prejudicial to the defence of British India, the public safety, the maintenance of public order or the efficient prosecution of war or to the maintenance of supplies and services essential for the life of the community, the requirements of the said sub-section [including the requirements of the said sub-section read with sub-section (2) of section 96 of the said Act] shall be deemed to have been complied with by the annexing to the prospectus of a copy of the certificate, and no matter to which the certificate relates shall be stated in the prospectus, nor shall any contract to which the certificate relates or any copy thereof be made available for inspection.

PART VII.

FALSE REPRESENTATIONS, ETC.

46. Prosecution and misleading acts and misrepresentations.—

(1) In this rule the expression "Government" means any Government whether within or without British India.

(2) No person shall do any act, or make any statement,—

- (a) calculated falsely to suggest that he or any other person is or is not acting (either generally or in a particular capacity) in the service, or on behalf, of any Government, or as a public servant, or
- (b) calculated falsely to suggest that any article or property does or does not belong to, or is or is not in the possession or under the control of, Government or has or has not been classified, selected or appropriated on behalf of Government for any particular purpose, or
- (c) whereby any directions, instructions or information falsely purporting to be duly issued or given for purposes connected with the defence of British India or the securing of the public safety, are communicated or are intended to be communicated to the public or to any section thereof, or
- (d) having reasonable cause to believe that the said act or statement is likely to mislead any person in the discharge of any lawful functions in connexion with the defence of British India or the securing of the public safety.

(3) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

¹ Added by Notification No. 530-O. R./40, dated the 23rd July 1940.

47. *Forgery and improper use of official documents, etc.*—(1) In this rule—

- (a) "Government" means any Government whether within or without British India;
 - (b) "official document" includes any passport, pass, permit, certificate, licence, notice or other document issued by or under the authority of any Government or any officer of His Majesty's Forces or any police officer;
 - (c) "official seal" includes any die, seal, plate or other instrument for making an impression or stamp and any impression or stamp of any such die, seal, plate or other instrument, belonging to, or used, made or provided by or for, any Government.
- (2) No person shall—
- (a) forge, alter, tamper with or destroy any official document or any application, request or receipt in respect of any official document; or
 - (b) use or have in his possession any forged or altered official document, or any document so nearly resembling an official document as to be calculated to deceive; or
 - (c) personate or falsely represent himself to be, or not to be, a person to whom an official document relates or to whom an official document or any secret official codeword or password has been duly issued or communicated; or
 - (d) with intent to obtain an official document, secret official codeword or password, whether for himself or for any other person, knowingly make any false statement; or
 - (e) without lawful authority make, use or have in his possession or under his control any official seal or any die, seal, plate, or other instrument so nearly resembling an official seal as to be calculated to deceive.

(3) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

48. *Improper use of uniforms, etc.*—(1) No person shall without lawful authority use or wear—

- (a) any official uniform, Indian, British or foreign, or any dress so nearly resembling such uniform as to be calculated to deceive; or
- (b) any official decoration, medal, badge or mark or rank, rating, qualification or duty, Indian, British or foreign, or any copy or miniature thereof, or any ribbon or other emblem designed for use therewith or indicating possession thereof, or any article so nearly resembling any of the aforesaid articles as to be calculated to deceive.

(2) No person shall falsely represent himself to be a person who possesses or has possessed lawful authority to use or wear any such uniform or article as is mentioned in sub-rule (1).

(3) No person shall supply or offer to supply any such uniform or article as is mentioned in sub-rule (1) to or for any person whom he knows to be without lawful authority to use or wear it.

(4) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

(5) In any prosecution under sub-rule (1) or sub-rule (2), the onus of proving that a person possessed lawful authority to use or wear any such uniform or article as is mentioned in sub-rule (1) shall, notwithstanding anything contained in the Indian Evidence Act, 1872, lie upon that person.

PART VIII.

PREPARATIONS FOR DEFENCE.

49. *Evacuation of areas.*—(1) The Central Government may, if it appears necessary for the purpose of meeting any actual or apprehended attack or of protecting persons and property from the dangers involved in such attack, [or of facilitating any operations of His Majesty's Forces]¹ by order direct, in respect of any specified area, that, subject to any exemptions made by general order or special permission,—

- (a) all persons or any class of persons shall remove themselves or be removed from the said area or to any specified part thereof;
 - (b) any animals or property or any specified class of animals or property shall be removed from the said area or to any specified part thereof;
 - (c) within a specified time any building or other property specified in the order shall be destroyed or rendered useless;
- and may do any other act involving interference with private rights of property which is necessary for any of the purposes aforesaid.

(2) An order made under sub-rule (1) for the removal of persons, animals or property may specify—

- (a) the route or routes by which all or any class of persons, animals or property are to remove themselves or be removed from the specified area or to any specified part thereof;
- (b) the time or times by which they are to remove themselves or be removed therefrom or to any specified part thereof;
- (c) the place or places to which they are to proceed or be taken on removing themselves or being removed from the specified area;

and may make such other incidental and supplementary provisions as may appear necessary or expedient for the purposes of the said order.

(3) If any order made under sub-rule (1) is contravened in respect of any animal or property, the person in charge of such animal or property shall be deemed to have contravened the order.

(4) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to six months and shall also be liable to fine.

50. *Accommodation of evacuated persons.*—(1) The Central Government or the Provincial Government may, for the purpose of accommodating any persons who have left or been removed from their homes in accordance with any order made under rule 49, take possession of any pre-

¹ Inserted by Notification No. 357-O. R./40, dated the 29th February 1940.

mises other than premises used for the purpose of religious worship or a private dwelling house.

(2) Whenever in pursuance of sub-rule (1) the Central Government or a Provincial Government takes possession of any premises [and the circumstances are not such as to render the provisions of *section 19 of the Defence of India Act, 1939*,¹ applicable]² rent shall be paid for such premises at such rates as that Government may by general or special order made in this behalf determine.

(3) The Central Government or the Provincial Government, as the case may be, may, at any time, restore possession of any premises in respect of which action has been taken under sub-rule (1) to the owner or occupier thereof and may order that no person shall thereafter be in those premises except with the consent of the occupier.

(4) If any person contravenes any order made under this rule, he shall be punishable with fine which may extend to five hundred rupees.

51. Precautions against hostile attack.—(1)³ The Central Government or the Provincial Government may, with a view to protecting the general public or any members thereof against the dangers involved in any apprehended attack by land, sea or air, or with a view to acquainting the general public or any members thereof with the action to be taken in such an emergency, by order specify the action to be taken by any person or authority on such occasions as may be specified.

(2) An order made under sub-rule (1) may provide that upon the giving of any specified notice or signal any person or class of persons may, subject to such conditions and in such circumstances as may be specified, enter and remain in or on any premises or property which may be specified or which may be appointed for the purpose of this rule by any specified authority or person.

(2) No person shall—

(a) wilfully obstruct any person entering or seeking to enter any premises or property in accordance with an order made under this rule, or

(b) eject from any premises or property any person who is entitled to remain there by virtue of such an order.

(4) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to six months and shall also be liable to fine.

52. Control of lights and sounds.—(1) The Central Government or the Provincial Government may by order provide—

(a) for prohibiting or regulating the display of lights of any specified description ;

(aa)⁴ for the screening of any lighting apparatus, whether for the time being alight or not, carried on, or attached to, any specified class of vehicles ;

¹ Substituted by Notification No. 261 O. R./39, dated the 14th November 1939.

² Inserted by Notification No. 209-O. R./39, dated the 6th October 1939

³ Sub-rule (1) was substituted by Notification No. 558-O.R./40, dated the 21st September 1940.

⁴ Inserted by Notification No. 538-O.R./40, dated the 31st August 1940.

- (b) for securing that, in specified circumstances, indication of the position of such premises and places, and warning of the presence of such vehicles and vessels, as may be specified shall be given by means of such lights as may be specified, and for prescribing the manner in which any apparatus used for the purpose of exhibiting such lights is to be constructed, installed or used ;
 - (c) for prohibiting or regulating the use of roads by any particular class of traffic, so far as appears to it to be necessary for avoiding danger consequent on compliance with any provisions of an order made under this rule which relate to the lighting of roads or of vehicles on roads ;
 - (d) for prohibiting or regulating such activities as may be specified, being activities which consist of or involve the emission of smoke, flames, sparks or glare or the making of noise.
- (2) An order under sub-rule (1), may be made so as to apply to any specified area or premises, may make different provisions as respects different parts of an area or different classes of premises, places, vehicles or vessels therein, may provide for exempting any premises, places, vehicles or vessels (either absolutely or conditionally) from the operation of any of the provisions of the order, and may contain such incidental and supplementary provisions as appear to the authority making the order to be necessary or expedient for the purposes of the order.
- (3) If any order made under sub-rule (1) is contravened in respect of, or in relation to, any light, premises, place, vehicle, vessel, apparatus, road or activity to which the order applies, any police officer, or any person authorised in this behalf by the authority making the order, may take such steps and use such force as may, in his opinion, be reasonably necessary for giving effect to the order, and in the exercise of this power shall have a right of access to any land or other property whatsoever.
- (4) If any order made under this rule is contravened in respect of any premises, place, vehicle or vessel, the occupier of the premises, or place, the person in charge of the vehicle, or the master of the vessel, as the case may be, shall (without prejudice to any proceedings which may be taken against any other person) be deemed to have contravened the provisions of this rule :

Provided that in any proceedings which by virtue of this sub-rule are taken against any person in respect of a contravention of such an order on the part of another person, it shall be a defence for the accused to prove that the contravention or non-compliance occurred without his knowledge and that he exercised all due diligence to secure compliance with the order.

(5) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to six months and shall also be liable to fine.

53. Curfew.—(1) The Central Government or the Provincial Government may, by order, direct that, subject to any specified exemption, no person present within any specified area shall between such hours as may be specified be out of doors except under the authority of a written permit granted by a specified authority or person.

(2) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to six months and shall be liable to fine.

PART IX.

CONTROL OF ARMS AND EXPLOSIVES.

54. *Carrying and possession of arms and explosives.*—(1)¹ The Central Government or the Provincial Government may, by general or special order, prohibit, restrict or impose conditions on, the possession, carrying, use, sale or other disposal of—

- (a) arms or articles capable of being used as arms;
 - (b) ammunition;
 - (c) substances (hereinafter referred to as explosive substances) which are, or are declared to be, explosives within the meaning of the Indian Explosives Act, 1884.
- (2) Without prejudice to any powers conferred by or under any other law for the time being in force,—

- (a) if any police officer not below the rank of head constable, or any other public servant authorised by the Central Government or a Provincial Government to act under this rule, suspects that any arms, [articles capable of being used as arms.]² ammunition, or explosive substances are in or upon any land, vehicle, aircraft, vessel, building or other premises in contravention of an order made under sub-rule (1), he may enter, if necessary by force, and search the land, vehicle, aircraft, vessel, building or premises in or upon which he suspects that a contravention of an order made under sub-rule (1) has been committed at any time of the day or night, and may seize any arms, [articles capable of being used as arms,]³ ammunition or explosive substances found therein or thereon which he suspects to be therein or thereon in contravention of such order;
- (b) if any police officer, or any other public servant authorised by the Central Government or the Provincial Government to act under this rule, suspects that any person is carrying, or in possession of, arms, ammunition, or explosive substances * * *³ in contravention of an order made under sub-rule (1) such officer or other public servant may stop and search or cause to be searched such person and seize any arms, [ammunition or explosive substances]¹ * * *³ possessed or carried by him [which such officer or other public servant suspects to be possessed or carried]² in contravention of such order:

Provided that no female shall be searched in pursuance of the provisions of this rule except by a female.

(3) Any arms, ammunition, explosive substances or other articles seized under the provisions of this rule may be destroyed or otherwise disposed of as may be ordered by the Provincial Government.

(4) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

¹ Substituted by Notification No. 516-O. R. /40, dated the 23rd October 1940.

² Inserted by Notification No. 516-O. R. /40, dated the 23rd October 1940.

³ Words " or other articles " omitted by Notification No. 516-O. R. /40, dated the 23rd October 1940.

55. Manufacture and transport of explosives and other dangerous articles.—(1) The Central Government may, as respects any premises used for producing, treating, handling, or keeping any munitions of war, explosives or petroleum or any other substance to which any of the provisions of the Indian Explosives Act, 1884, or of the Petroleum Act, 1934, apply, or may be applied, by order make provision for the safety of persons and property in, or in the vicinity of, such premises; and by any such order may authorise the searching of persons entering, or seeking to enter, or being within any premises to which the order applies.

Provided that no female shall be searched in pursuance of such order except by a female.

(2) The Central Government may by order make, in relation to the conveyance on vehicles or vessels of any description of any such articles or substances as are mentioned in sub-rule (1), such provision as may appear to be necessary or expedient for the protection of persons or property against danger arising from, or in connection with, such conveyance.

(3) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to two years and shall also be liable to fine.

PART X.

PUBLIC SAFETY AND ORDER.

56. Control of processions, meetings, etc.—(1) The Central Government or the Provincial Government¹ may [for the purpose of securing the defence of British India, the public safety, the maintenance of public order or the efficient prosecution of war]² by general or special order, prohibit, restrict or impose conditions upon, the holding of or taking part in public processions, meetings or assemblies * * *

(2) For the purposes of sub-rule (1), any procession, meeting or assembly which is open to the public or to any class or portion of the public, whether held in a public or a private place and whether admission thereto is restricted by the issue of tickets or otherwise, shall be deemed to be a public procession, meeting or assembly as the case may be.

(3) Any police officer may take such steps, and use such force, as may be reasonably necessary for securing compliance with any order made under this rule.

(4) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

57. Power to restrict use of motor vehicles.—(1) The Central Government may, by general or special order, prohibit, restrict or impose conditions upon, the use or possession of any motor vehicle by any person, other than a member of His Majesty's forces, without a permit from such military authority as may be specified or from the senior police officer in the district in which the said person resides.

¹ Substituted by Notification No. 583 O. R. /40, dated the 21st October 1940.

² Inserted by Notification No. 232-O.R. /5/39, dated the 9th September 1939.

³ Words "for such period as may be specified in the order" omitted by Notification No. 583-O. R. /40, dated the 20th October 1940.

(2) If any police officer or any other person authorised by the Central Government in this behalf suspects that any motor vehicle is or is kept in or upon any building, land, vehicle, vessel or other premises or is being used by any person in contravention of an order made under this rule, such officer or person may—

- (i) enter and search such building, land, vehicle, vessel or other premises at any time of the day or night and may seize any motor vehicle found therein or thereon which he suspects to be therein or thereon in contravention of such order;
- (ii) stop such person and seize any motor vehicle which is being used in contravention of such order.

(3) The Central Government may declare any motor vehicle seized in pursuance of this rule to be forfeited to His Majesty and thereupon such motor vehicle shall be disposed of in such manner as may be ordered by the Central Government.

(4) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to six months and shall also be liable to fine.

58. Unlawful drilling.—(1) The Central Government or the Provincial Government may, by general or special order, prohibit or restrict in any area any such exercise, movement, evolution or drill of a military nature as may be specified in the order.

(2) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

59. Unofficial uniforms, etc.—(1)¹ If the Central Government or the Provincial Government is satisfied that—

- (a) the wearing in public of any dress or article of apparel resembling any uniform or part of a uniform required to be worn by a member of His Majesty's or by a member of any official Police Force or of any force constituted under any law for the time being in force,

- (b) the wearing or display in public of any distinctive dress or article of apparel or any emblem,

would be likely to prejudice the public safety, the maintenance of public order, the defence of British India or the prosecution of the war, the Central Government or the Provincial Government as the case may be, may, by general or special order, prohibit or restrict the wearing or display in public of any such dress, article of apparel or emblem.

(2) For the purposes of this rule, a dress, an article of apparel or an emblem shall be deemed to be worn or displayed in public if it is worn or displayed so as to be visible to a person in any place to which the public have access.

(3) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

¹ Sub-rule (1) substituted by Notification No. 536-O. R./40, dated the 3rd August 1940.

PART XI.
SHIPPING AND AIRCRAFT.

60. General control of navigation.—(1) The Provincial Government as respects inland waters, and the Central Government as respects waters other than inland waters, may by order make provision for regulating the places in or to which vessels may be or go, and the movements, navigation, pilotage, anchorage, mooring, berthing and lighting of vessels, in such waters.

(2) If in the case of any vessel any order made under sub-rule (1) is contravened, the master of the vessel shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

60-A.¹ Power to exclude Indian vessels from particular areas.—(1) The Central Government may, if it appears to it to be necessary or expedient so to do for the purpose of facilitating the protection of shipping or the efficient prosecution of war, by order require any vessel registered in British India to leave, or to keep away from, any area specified in the order, and any such order may make provision for such incidental and supplementary matters as appear to the Central Government to be necessary or expedient.

(2) If in the case of any vessel registered in British India an order under sub-rule (1) is contravened or not complied with, the master of the vessel and the owner or other person having the management thereof shall each be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

61. Control of buoys, lights, etc.—(1) No person shall, except under permission granted by the Central Government, discontinue, alter or remove, or make any variation in the mode of exhibiting or operating, any light, buoy, beacon or other apparatus used for the purpose of aiding the navigation of shipping or aircraft.

(2) The Central Government may make orders for prohibiting or restricting the exhibition or operation of, or requiring the removal, alteration or concealment of, or the making of any variation in the mode of exhibiting or operating, any such light, buoy, beacon or other apparatus as aforesaid.

(3) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to five years, and shall also be liable to fine.

62. Measures for safety of Indian vessels.—(1) The Central Government may by order make provision—

- (a) for securing that any vessel registered in British India shall not, except under permission granted by the Central Government, proceed to sea from any port (whether within or outside British India) unless such requirements in respect of the alteration of the structure or external appearance of the vessel, and in respect of the equipping of the vessel, with any particular apparatus, contrivance, appliance or defensive equipment, as may be contained in the order have been complied with ;

¹ Inserted by Notification No. 418-O. R./40, dated the 29th June 1940.

- (b) for securing the proper maintenance and efficient use of any apparatus, contrivance, appliance or defensive equipment with which any such vessel is equipped in pursuance of the order ;
 - (bb)¹ for prescribing the wireless telegraph services to be maintained, and the number, grade and qualifications of operators and watchers to be carried in connexion with the operation of any wireless telegraphy apparatus provided in any such vessel, whether in pursuance of the order or otherwise ;
 - (c) for any incidental or supplementary matters for which it appears to the Central Government to be necessary for the purposes of the order to provide.
- (2) An order under sub-rule (1) may be made so as to apply either to a particular vessel or to vessels of a particular class, and so as to apply to any such vessel or vessels either wherever it or they may be or while in such waters, or engaged on such voyages, as may be specified.

(3) If any vessel proceeds or attempts to proceed to sea in contravention of an order made under this rule, the master of the vessel and the owner or other person having the management thereof shall each be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

63. *Employment in Indian vessels.*—(1) The Central Government may, as respects any class of vessels registered in British India, by order make provision—

- (a) for securing that, subject to any exemptions for which provision may be made by the order, any such class of persons as may be specified in the order shall not be employed on board vessels to which the order applies ;
 - (b) for prohibiting the employment of any person or class of persons on board such vessels unless they are holders of certificates of identity issued in such form and manner as may be specified and for determining the circumstances in which certificates of identity may be granted and revoked.
- (2) An order under sub-rule (1) may be made so as to restrict the employment of persons either in any capacity or in such capacity as may be specified and so as to restrict the employment of persons on such vessels as aforesaid either wherever they may be or while in such waters, or engaged in such trades or on such voyages, as may be specified.

(3) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

63-A². *Officers authorised in United Kingdom deemed duly certificated*—Notwithstanding anything contained in section 12 of the Indian Merchant Shipping Act, 1923, an officer who has been authorised by or on behalf of the competent authority in the United Kingdom under regulation 47-C of the Defence (General) Regulations, 1939,

¹ Inserted by Notification No. 547-O. R./40, dated the 17th August 1940.

² Inserted by Notification 537-O.R./40, dated the 3rd August 1940.

to act as master or officer of any grade of a British ship shall, while acting in pursuance of the authorisation, be deemed to be duly certificated under the said Act.

64. *Employment abroad of agents for Indian vessels.*—(1) The Central Government, with a view to preventing the employment abroad, in connexion with the management of vessels registered in British India, of enemy aliens or persons connected with the enemy, may by order direct that, as from such date as may be specified, the owner, manager or charterer of any vessel registered in British India, being a person resident in British India, or a corporation incorporated under the law of British India, shall not employ in any foreign country or territory, in connexion with the management of the vessel, any person other than a person approved for the purpose by the Central Government; and an order under this rule may be made so as to apply either generally to employment in all foreign countries or territories or to employment in such foreign countries, or territories, or such class of foreign countries or territories, as may be specified in the order.

(2) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

65. *Control of trade by sea.*—(1) Without prejudice to any order made under sub-rule (1) of rule 60¹ the Central Government, with a view to securing that vessels registered in British India are used in such manner only as the Central Government considers expedient in the interests of the defence of British India and the efficient prosecution of the war, or for the maintenance of supplies and services essential to the life of the community, may by order provide that any such vessel registered in British India as may be specified in the order shall not proceed to sea from any port (whether within or outside British India) except under the authority of a licence granted by such authority or person as may be specified in the order; and any such order may contain provisions whereby a licence under the order may be granted subject to such limitations and conditions as the authority or person granting the licence thinks fit to impose with respect to—

(a) the trades in which the vessel may be engaged and the voyages which may be undertaken by the vessel;

(b) the class of cargoes or passengers which may be carried in the vessel;

(c) the hiring of the vessel and the terms upon which cargoes or passengers may be carried in the vessel;

and may also contain provisions for requiring any vessel in respect of which such a licence is in force to comply with any directions given on behalf of the Central Government as to the ports to which and the routes by which the vessel is to proceed for any particular purposes.

(2) Any provisions of an order made under sub-rule (1) may be framed so as to apply to any such vessels either wherever they may be or while in such waters, or engaged in such trades or on such voyages, as may be specified.

(3) Without prejudice to any of the provisions of sub-rules (1) and (2), the Central Government, with a view to regulating the use of vessels in

¹ Substituted by Notification No. 250-O. R./39. dated the 13th October 1939.

the coasting trade, may by order provide that no vessel shall proceed to sea from any port in British India on a voyage to any other such port except under the authority of a licence granted by such authority or person as may be specified in the order.

(4) Without prejudice to any order made under sub-rule (1) of rule 60 or to any other provision of these Rules, the Central Government may make such orders with respect to any vessel or class of vessels¹—

- (a) for securing that goods or passengers shall not be put off or taken on board such vessel or class of vessels¹ in British India elsewhere than at a prescribed port,
- (b) for determining the class of goods or passengers that may be put off or taken on board such vessel or class of vessels¹ at a port in British India, or
- (c) for determining the order of priority in which specified goods or classes of goods shall be put off or taken on board such vessel or class of vessels at a port in British India,¹

as the Central Government considers necessary or expedient in the interests of the defence of British India and the efficient prosecution of the war, or for maintaining supplies and services essential to the life of the community.

(5) If any vessel proceeds or attempts to proceed to sea in contravention of an order made under this rule, or if otherwise there is any contravention of such an order in the case of a vessel, the master of the vessel and the owner or other person having the management thereof shall each be deemed to have contravened such order and shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

66. Requisitioning of vessels.—(1)² The Central Government may by order in writing requisition—

- (a) any vessel in British India or anything on board a vessel in British India ;
- (b) any vessel registered in British India or anything on board such vessel, wherever such vessel may be ;

and may make such further orders as appear to the Central Government to be necessary or expedient in connection with the requisitioning :

Provided that the preceding provisions of this rule shall not authorise the requisitioning of any vessel registered in the United Kingdom or in any Dominion within the meaning of the Statute of Westminster, 1931, or of anything on board such vessel.

(1a)³ Any vessel requisitioned under the Requisitioning of Vessels Ordinance, 1939, shall be deemed to have been requisitioned by order of the Central Government under sub-rule (1).

(2) Where the Central Government has requisitioned any vessel under sub-rule (1), the Central Government may use or deal with the vessel for such purpose and in such manner as may appear to it to be expedient, and

¹ Substituted and inserted by Notification No. 250-O. R./ 39, dated the 13th October 1939.

² Sub rule (1) substituted by Notification No. 324-O. R. /40, dated the 17th July 1940.

³ Inserted by Notification No. 324-O. R./40, dated the 10th February 1940.

may hold, or sell, or otherwise dispose of the vessel as though the Central Government were the owner thereof.

(2a)¹ The Central Government may by order require the owner, or the person having the management, of any vessel registered in British India to furnish to such authority as may be specified in the order such information in his possession relating to the vessel or to things on board the vessel (being information which may reasonably be required of him in connexion with the execution of this rule) as may be so specified.

(3) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

67. Power to restrict the transfer of vessels.—(1) No person shall transfer or acquire any interest in any vessel registered in British India without the previous consent in writing of the Central Government.

(2) Notwithstanding anything contained in section 53 of the Merchant Shipping Act, 1894, an application made (whether before or after the commencement of the Ordinance) for the transfer of the registry of a ship registered in British India from one port to another, shall not be granted except with the approval of the Central Government.

(3) If any person contravenes any of the provisions of sub-rule (1), he shall be punishable with imprisonment for a term which may extend to seven years and shall also be liable to fine.

(4)² Any transaction effected in contravention of the provisions of sub-rule (1) shall be void and unenforceable.

68. Power to take up accommodation in certain vessels.—(1) The Central Government may by order in writing require the owner, or the person having the management, or the master, of any vessel registered in British India—

(a) to place at the disposal of Government the whole or any part of the space or accommodation available on such vessel, and to employ such space or accommodation for the carriage of any persons, animals or things to any place specified in the order, and

(b) to undertake or permit to be undertaken such structural additions or alterations on board such vessel as may be necessary to fit it for the safe carriage of any persons, animals or things.

(2) Whenever in pursuance of clause (a) of sub-rule (1) any space or accommodation in any vessel is placed at the disposal of the Central Government [and the circumstances are not such as to render the provisions of section 19 of the Defence of India Act, 1939,³ applicable]⁴ the owner of such vessel shall be paid therefor at such rates as the Central Government may by order made in this behalf determine.

(3) Whenever in pursuance of clause (b) of sub-rule (1) the Central Government requires any structural additions or alterations to be undertaken

¹ Inserted by Notification No. 532-O. R. /40, dated the 21st September 1940.

² Inserted by Notification No. 115-O. R., dated the 11th November 1939.

³ Substituted by Notification No. 261-O. R. /39, dated the 14th November 1939.

⁴ Inserted by Notification No. 209-O. R. /39, dated the 6th October 1939.

on-board any vessel, the owner of such vessel shall be paid the actual cost of such additions or alterations.

(4) Where, in respect of any vessel, there subsists between a British subject resident in India or a corporation incorporated under the law of British India and any other person a charter-party or other contract under which the first-mentioned person is entitled to possession of it or has the right to have any articles carried in it or to use any space or accommodation in it, the Central Government may serve on the first-mentioned person, in any manner appearing to the Central Government to be convenient, a notice stating that on such date as may be specified in the notice his rights and liabilities under the contract will be transferred to the Central Government; and in that event the contract shall, as regards any rights exercisable, or liabilities incurred on or after the said date, have effect, subject to the provisions of sub-rule (1), as if the Central Government were a party to the contract instead of the person on whom the notice was served, and as if for any reference in the contract to that person there were substituted a reference to the Central Government.

(5) The Central Government may at any time cancel a notice served under the provisions of sub-rule (4) in respect of a contract, and thereupon the provisions of the said sub-rule shall, unless and until a further notice is served thereunder in respect of that contract, cease to operate in relation to the contract as regards any rights exercisable, or liabilities incurred, on or after the date on which the cancellation takes effect.

(6) If any order made under sub-rule (1) is contravened, the master of the vessel and the owner or other person having the management thereof shall each be deemed to have contravened such order and shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

69. Stopping of vessels.—(1) Any person authorised in this behalf by the Central Government may, if it appears to that person to be necessary in the interests of the defence of British India or *the efficient prosecution of war*¹ so to do, order, with respect to any particular vessel at a port or place in British India, that the vessel shall not leave the port or place until permitted to do so by such authority or person as may be prescribed in the order.

(2) Subject to the provisions of sub-rule (3), if any vessel leaves or attempts to leave any port or place in contravention of any such order as aforesaid, the master of the vessel shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

(3) Any order made under the provisions of this rule shall cease to have effect ninety-six hours after the time at which it is made, unless in the meantime it has been confirmed by the Central Government.

70. Power to restrict the transfer of aircraft.—(1)² No person shall without the previous consent in writing of the Central Government transfer

¹ Inserted by Notification No. 3540/40, dated 18th May 1940.

² Substituted by Notification No. 115-O. R., dated the 11th November 1939.

or acquire any interest in any aircraft registered under the Indian Aircraft Act, 1934, whether the certificate of registration of such aircraft is in force or not, or in any part of an aircraft, or in any materials identified, under any system recognized by the Director of Civil Aviation in India, for the purpose of the construction of aircraft.

(1A)¹ Any transaction effected in contravention of the provisions of sub-rule (1) shall be void and unenforceable.

(2) If any person contravenes any of the provisions of sub-rule (1), he shall be punishable with imprisonment for a term which may extend to seven years and shall also be liable to fine.

71. Enforcement of provisions of the Indian Aircraft Act and Rules.—The pilot of any aircraft flying in contravention of any provision of, or of any rule made under, the Indian Aircraft Act, 1934, shall, on being warned in the manner prescribed by the rules made under that Act, immediately land, and if such pilot fails to comply with such warning as aforesaid, any commissioned officer of His Majesty's forces may take or cause to be taken such action as may be necessary to terminate the flight.

72. Requisitioning of aircraft.—(1) The Central Government, subject to the provisions of sub-rule (2), may by order in writing requisition—

(a) any aircraft in British India and anything on board or forming part of any aircraft in British India ;

(b) any aircraft registered under the Indian Aircraft Act, 1934, or anything on board or forming part of such an aircraft wherever such aircraft may be ;

(c) any machinery, plant, material or thing used for the operation, manufacture, repair or maintenance of aircraft ;

and may give such further orders as appear to the Central Government to be necessary or expedient in connection with the requisitioning.

(2) Nothing in sub-rule (1) shall authorise the requisitioning of any aircraft registered in the United Kingdom, or any Dominion within the meaning of the Statute of Westminster, 1931, or of anything on board or forming part of such aircraft.

(3) Where the Central Government has requisitioned any aircraft under sub-rule (1), the Central Government may use or deal with the aircraft for such purpose and in such manner as may appear to it to be expedient, and may hold, or sell, or otherwise dispose of the aircraft as though the Central Government were the owner thereof.

(3a)² The Central Government may by order require the owner, or the person having the management of, any such aircraft or thing as is referred to in sub-rule (1) to furnish to such authority as may be specified in the order such information in his possession relating to the said aircraft or thing (being information which may reasonably be required of him in connexion with the execution of this rule) as may be so specified.

(4) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

73. Power to take up accommodation in aircraft.—(1) The Central Government may, by order in writing require the owner or

¹ Substituted by Notification No. 115-O.R., dated the 11th November 1939.

² Inserted by Notification No. 532-O.R./40, dated the 21st September 1940.

the person having the management or the pilot of any aircraft registered under the Indian Aircraft Act, 1934,—

- (a) to place at the disposal of Government the whole or any part of the space or accommodation available in or on such aircraft and to employ such space or accommodation for the carriage of any persons, animals or things to any place specified in the order; and
- (b) to undertake or permit to be undertaken such structural additions or alterations to such an aircraft as may be necessary to fit it for the safe carriage of any persons, animals or things.

(2) Whenever in pursuance of clause (a) of sub-rule (1) any space or accommodation in any aircraft is placed at the disposal of the Central Government [and the circumstances are not such as to render the provisions of *section 19 of the Defence of India Act, 1939*¹ applicable]² the owner of such aircraft shall be paid therefor at such rates as the Central Government may by order made in this behalf determine.

(3) Whenever in pursuance of clause (b) of sub-rule (1) the Central Government requires any structural additions or alterations to be undertaken on board any aircraft, the owner of such aircraft shall be paid the actual cost of such additions or alterations.

(4) Where in respect of any aircraft there subsists between a British subject resident in India or a corporation incorporated under the law of British India and any other person a contract under which the first-mentioned person is entitled to possession of it, or has the right to have any articles carried in it or to use any space or accommodation in it, the Central Government may serve on the first-mentioned person, in any manner appearing to the Central Government to be convenient a notice stating that on such date as may be specified in the notice his rights and liabilities under the contract will be transferred to the Central Government; and in that event the contract shall, as regards any rights exercisable, or liabilities incurred on or after the said date, have effect, subject to the provisions of sub-rule (1), as if the Central Government were a party to the contract instead of the person on whom the notice was served, and as if for any reference in the contract to that person there were substituted a reference to the Central Government.

(5) The Central Government may at any time cancel a notice served under sub-rule (4) in respect of a contract, and thereupon the said sub-rule shall, unless and until a further notice is served thereunder in respect of that contract, ceased to operate in relation to the contract as regards any rights exercisable, or liabilities incurred, on or after the date on which the cancellation takes effect.

(6) If any order made under sub-rule (1) is contravened, the pilot of the aircraft and the owner or other person having the management thereof shall each be deemed to have contravened such order and shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

¹ Substituted by Notification No. 261-O. R./39, dated the 14th November 1939.

² Inserted by Notification No. 209-O. R./39, dated the 6th October 1939.

74. Stopping of aircraft.—(1) Any person authorised in this behalf by the Central Government may, if it appears to that person to be necessary in the interests of the defence of British India so to do, order, with respect to any particular aircraft at any place in British India, that the aircraft shall not leave the place until permitted to do so by such authority or person as may be prescribed in the order.

(2) Subject to the provisions of sub-rule (3), if any aircraft leaves or attempts to leave any place in contravention of any such order as aforesaid, the pilot of the aircraft shall be punishable with imprisonment for a term which may extend to three years, and shall also be liable to fine.

(3) Any order made under this rule shall cease to have effect ninety-six hours after the time at which it is made, unless in the meantime it has been confirmed by the Central Government.

75. Control of navigation of seaplanes.—(1) The Central Government may, by order, make provision as to the places in British India in or to which sea planes may be or go, and generally for regulating the movements, navigation, pilotage, anchorage, mooring, berthing and lighting of seaplanes on the surface of the water.

(2) for the purposes of this rule seaplanes taking off from, or alighting on, the water shall be deemed to be on the surface of the water while they are in contact therewith.

(3) If in the case of any seaplane an order made under the provisions of sub-rule (1) is contravened, the pilot of the seaplane shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

PART XII.

ESSENTIAL SUPPLIES AND WORK.

76. Powers relating to buildings and premises.—(1) The Central Government or the Provincial Government may by order in writing requisition any building, part of a building, or other premises, together with any fixtures, fittings, furniture or other things therein, and may make such further orders as appear to that Government to be necessary or expedient in connection with the requisitioning ;

Provided that no premises or things used for the purpose of religious worship shall be requisitioned under this rule.

(2) Where the Central Government or the Provincial Government has requisitioned any premises or thing under sub-rule (1), that Government may dispose of and use such premises or thing in such manner as it may consider necessary or expedient.

(2a)¹ The Central Government or the Provincial Government may by order—

(a) require the owner or occupier of any building, part of a building, or other premises to furnish to such authority as may be specified in the order such information in his possession relating to the building, part of a building, or other premises, or to any fixtures, fittings, furniture or other things therein (being information which may reasonably be required of him in connection with the execution of this rule) as may be so specified ;

¹ Inserted by Notification No. 532-O.R. /40, dated the 21st September 1940.

- (b) direct that such owner or occupier shall not, without the permission of the Central Government or the Provincial Government as the case may be, dispose of such building, part of a building, or other premises, or of any fixtures, fittings, furniture or other things therein, till the expiry of such period as may be specified in the order.

(3) If any person contravenes any order made in pursuance of this rule he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

76A.¹ Powers relating to storage accommodation.—(1) The Central Government may by order in writing require the owner, or the person having the management, of any warehouse or cold storage depot to place at the disposal of Government the whole or any part of the space or accommodation available in such warehouse or cold storage depot and to employ such space or accommodation for the storage of, any articles or things specified in the order; and such an order may require the said owner or person to afford such facilities, and maintain such services, in respect of the storage of such articles or things, as may be specified.

(2) Whenever in pursuance of an order made under sub-rule (1) any space or accommodation in a warehouse or cold storage depot is placed at the disposal of the Central Government, and the circumstances are not such as to render the provisions of section 19 of the Defence of India Act, 1939, applicable, the owner of such warehouse or cold storage depot shall be paid therefor at such rates as the Central Government may by order made in this behalf determine.

(3) If any person contravenes any order made in pursuance of this rule, he shall be punishable with imprisonment for a term which may extend to six months and shall also be liable to fine.

77. Power to exempt buildings from the operation of building laws.—Nothing contained in any law for the time being in force, or in any rule made under any such law, to regulate the erection, re-erection, construction, alteration or maintenance of buildings, shall apply to any building the use of which by or on behalf of Government is certified by the Central Government to be necessary or expedient for the successful prosecution of the war and the defence of British India.

78. Power to do work on land.—(1) For the purposes of this rule, the doing of work on land shall include the demolition or rendering useless of anything placed in, on or over the land, the removal from the land of anything so demolished or rendered useless and the maintenance of any work or thing in, on or over the land.

(2) Any member of His Majesty's forces acting in the course of his duty as such, and any other person authorised by the Central Government in that behalf, may, if in the opinion of such member or person it is necessary or expedient so to do for securing the defence of British India, the public safety, the maintenance of public order or the efficient prosecution of war, or for maintaining supplies and services essential to the life of the community, do any work on any land, or place anything in, on or over any land.

¹ Inserted by Notification No. 294 O. R./39, dated the 8th December 1939.

(3) If in the opinion of the Central Government it is necessary or expedient so to do for securing the defence of British India, the public safety, the maintenance of public order or the efficient prosecution of war, or for maintaining supplies and services essential to the life of the community, the Central Government may by order provide for prohibiting or restricting the doing on any particular land of any such work as may be specified in the order.

(4) No person shall, except with permission granted by or on behalf of the Central Government, remove, alter or tamper with any work done, or thing placed, in, on or over any land in pursuance of this rule.

(5) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to six months, and shall also be liable to fine.

79. Requisitioning of land.—(1) If in the opinion of the Central Government it is necessary or expedient so to do for securing the defence of British India, the public safety, the maintenance of public order or the efficient prosecution of war, or for maintaining supplies and services essential to the life of the community, the Central Government may by order in writing requisition any land, and may make such further orders as appear to the Central Government to be necessary or expedient in connection with the requisitioning :

Provided that no land used for religious purposes shall be requisitioned under this rule.

(2) Where any land has been requisitioned by the Central Government under sub-rule (1), the Central Government may dispose of and use such land in such manner as it thinks fit.

(3)¹ The Central Government may by order—

(a) require the owner or the occupier of any land to furnish to such authority as may be specified in the order such information in his possession relating to the land (being information which may reasonably be required of him in connexion with the execution of this rule) as may be so specified ;

(b) direct that the owner or occupier of any land shall not without the permission of the Central Government, dispose of the land or of any interest therein till the expiry of such period as may be specified in the order.

(4) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to two years, and shall also be liable to fine.

80. Use of land for purposes of His Majesty's forces.—(1) Without prejudice to any other of these Rules, the Central Government may by order authorise, subject to any restrictions or conditions imposed by the order, the use of any specified land for naval, military or air force purposes, during such period as may be specified ; and any such order may, so far as appears to the Central Government to be necessary or expedient for the purposes of the order, provide—

(a) for entitling any² person using any land in pursuance of the order to do such acts in relation to that land as may be specified ;

¹ Substituted by Notification No. 532-O R /40, dated the 21st September 1940.

² Inserted by Notification No. 361-O.R. /40, dated the 4th March 1940.

- (b) for prohibiting or restricting the exercise of rights of way over that land, and of other rights relating thereto which are enjoyed by any person, whether by virtue of an interest in land or otherwise.

(2) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to six months, and shall also be liable to fine.

81. General control of industry, etc.—(1) In this rule the expression “undertaking” means any undertaking by way of any trade or business.

(2) The Central Government, so far as appears to it to be necessary or expedient for securing the defence of British India or the efficient prosecution of the war, or for maintaining supplies and services essential to the life of the community, may by order provide—

- (a) for regulating or prohibiting the production, treatment, keeping, storage, movement, transport, distribution, disposal, acquisition, use or consumption of articles or things of any description whatsoever, [and in particular for prohibiting the withholding from sale, either generally or to specified persons or classes of persons, of articles or things kept for sale, and for requiring articles or things kept for sale to be sold either generally or to specified persons or classes of persons or in specified circumstances.]¹
- (aa)² for controlling the rates at which any vessel registered in British India may be hired and the rates at which persons or goods may be carried in or on any such vessel ;
- (b) for controlling the prices at which articles or things of any description whatsoever may be sold ;
- (bb)³ for controlling the rents in any urban area for residential accommodation, whether furnished or unfurnished and whether with or without board ;
- (c) for regulating the carrying on of any undertaking engaged in work appearing to the Central Government essential to any of the abovementioned purposes, and, in particular, for securing the prior fulfilment of contracts entered into with Government, and for controlling the charges which may be made by the undertakers in respect of the doing of any work by them and for regulating or prohibiting the engagement in the undertaking of any workman or any class or classes of workmen ;
- (d) for requiring persons carrying on any undertaking to keep such books, accounts and records relating to the undertaking as may be specified in the order ;
- (e) for requiring persons carrying on, or employed in connexion with, any undertaking to produce to such authority as may be specified in the order any books, accounts or other documents relating to the undertaking ; and for requiring such persons to furnish to such authority as may be specified in the order, such estimates,

¹ Added by Notification No. 366-O. R. /40, dated the 8th June 1940.

² Inserted by Notification No. 570-O. R./40, dated the 21st September 1940.

³ Inserted by Notification No. B-52-O. dated the 28th September 1939.

returns or other information relating to the undertaking as may be specified in the order or demanded thereunder ;

- (f) for any incidental and supplementary matters for which the Central Government thinks it expedient for the purposes of the order to provide, including, in particular, the entering and inspection of premises to which the order relates with a view to securing compliance with the order ;

and an order under this rule may prohibit the doing of anything regulated by the order except under, and in accordance with the conditions of, a licence granted by such authority as may be specified in the order, and may be made so as to apply either to persons or undertakings generally or to any particular person or undertaking or class of persons or undertakings, and either to the whole or to any part of any undertaking, and so as to have effect either generally or in any particular area.

(3) The Central Government, if it appears to it to be necessary so to do in the interests of the defence of British India or the efficient prosecution of the war, or for maintaining supplies and services essential to the life of the community, may carry on the whole or any part of any existing undertaking, or authorise a person to carry on the whole or any part of the undertaking, in accordance with any instructions of the Central Government ; and while by virtue of this sub-rule the Central Government or a person so authorised is carrying on the whole or any part of an undertaking,—

- (a) the said Government or person shall be deemed to be acting as the agent of the persons ordinarily carrying on the undertaking, except that such persons shall not have any right to control the carrying on of the undertaking or part of the undertaking ; and

- (b) such persons shall not be bound, or, as the case may be, shall not in respect of such matters as may be specified by order of the Central Government, be bound, by any obligation or limitation imposed on them by or by virtue of any Act or other instrument determining their functions.

(4) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

82. Restriction on transfer of mines.—(1) No owner of a mine shall, without the previous sanction of the Central Government, transfer the mine or any interest therein to any person other than a British subject, or to a foreign controlled company.

(2) If—

- (a) any person to whom a transfer of any mine has been made in contravention of this rule ; or

- (b) any agent entrusted with the charge, control or management of a mine by or on behalf of any person to whom a transfer of a mine has been made in contravention of this rule, and having reason to believe that this rule has been so contravened,

works such mine or removes any produce or output thereof, he shall be deemed to have contravened this rule.

(3) In this rule—

- (a) "British subject" means a person who is a natural-born British subject within the meaning of the British Nationality and Status of Aliens Act, 1914, and includes a subject, of an Indian State ;
- (b) "foreign-controlled company" includes any company, firm or association or body of individuals whether incorporated or not—
 - (i) which is not established in and subject to the laws of some part of His Majesty's dominions or of some British Protectorate, and has not its principal place of business therein ; or
 - (ii) in which the majority of the directors or of the partners, or of the persons occupying the position of directors or partners, by whatever name called, are not British subjects ; or
 - (iii) in which the majority of the voting power or the predominant interest is in the hands of persons who are not British subjects or of persons who exercise their voting power or hold their interest directly or indirectly on behalf of persons who are not British subjects ; or
 - (iv) of which the control is by any other means whatever in the hands of persons who are not British subjects ; or
 - (v) of which the managing body is a company, or the majority of the managing body are appointed by a company, of the nature described in any of the above sub-clauses ;
- (c) "mine" includes a quarry, and any mineral deposit or land known or believed to contain a mineral deposit of commercial value ;
- (d) "owner" includes a lessee, any person having a transferable interest and any agent of an owner or a lessee or of any person having such interest.

(4) If any person contravenes any of the provisions of this rule he shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

83.¹ Requisitioning of moveable property.—(1) Where, in the opinion of the Central Government, any animal, product, article or thing can be used in connexion with the prosecution of the war, the Central Government may, by order in writing, requisition such animal, product, article or thing, and may make such further orders as appear to the Central Government to be necessary or expedient in connection with the requisitioning.

(2) Whenever in pursuance of sub-rule (1) the Central Government requisitions any animal, product, article or thing, the owner of such animal, product, article or thing shall be paid such price therefor as the Central Government may determine

(3) Where the Central Government has requisitioned any animal, product, article or thing under sub-rule (1), the Central Government may dispose of and use such animal, product, article or thing in such manner as seems to the Central Government necessary or expedient.

¹ Words "animal, product" occurring in this rule were substituted for the word "product" by Notification No. 202-O. R. /39, dated the 17th January 1940.

(3a)¹ The Central Government may, with a view to the requisitioning of any animal, product, article or thing, or the determining of the price of any animal, product, article or thing which has been requisitioned, by order—

- (a) require any person to furnish to such authority as may be specified in the order such information in his possession relating to the animal, product, article or thing as may be so specified;
- (b) direct that the owner, or person in possession, of the animal, product, article or thing shall not, without the permission of the Central Government, dispose of it till the expiry of such period, as may be specified in the order.
- (4) If any person contravenes any order made in pursuance of this rule, he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

84. *Power to prohibit or restrict the import and export of goods.*—(1) In this rule—

- (a) "import," means bringing into British India by sea, land or air;
- (b) "export," means taking out of British India by sea, land or air.

(2) The Central Government may by notified order prohibit or restrict the import or export of all goods or goods of any specified description, from or to any specified person or class of persons.

(3)² The Central Government may by notified order make provision for prohibiting, restricting or otherwise controlling, in all cases or in specified classes of cases, and subject to such exceptions, if any, as may be made [by or under the order,—

- (i) the import, export, carriage coastwise or shipment as ships' stores of all goods or goods of any specified description;
- (ii) the shipment of fresh water on sea-going vessels;³
- (iii)⁴ the bringing into any port or place in British India of goods of any specified description intended to be taken out of British India without being removed from the ship or conveyance in which they are being carried.

(4)² Where, by an order made under sub-rule (2) or sub-rule (3), the import or export or the carriage coastwise or the shipment as ships' stores or the bringing into any port or place,⁴ of any goods or any shipment of fresh water⁵ is prohibited, restricted or otherwise controlled, such goods or as the case may be such fresh water⁵ shall be deemed to be goods of which the import or export has been prohibited or restricted under section 19

¹ Inserted by Notification 532-O. R. /40, dated the 21st September 1940.

² Substituted by Notification No. 313-O. R. /39, dated the 5th January 1940.

³ Substituted by Notification No. 592-O. R. /40, dated the 2nd November 1940

⁴ Added and inserted by Notification No. 607-O. R./40, dated the 30th November 1940.

⁵ Inserted by Notification No. 592-O. R. /40, dated the 2nd November 1940.

of the Sea Customs Act, 1878, and all the provisions of that Act shall have effect accordingly.

84A.¹ Definitions.—(1) In rule 84B, unless there is anything repugnant in the subject or context,—

- (a) "Enemy" and "enemy subject" have the meanings respectively assigned to them by rules 97 and 103 ;
- (b) "Design", "invention", "patent" and "patentee" have the meanings assigned to them by section 2 of the Indian Patents and Designs Act, 1911.

(2) Where a patent has been granted to any person in respect of an invention communicated to him by some other person, that other person shall, for the purposes of rule 84B be deemed to have an interest in the patent unless the contrary is proved.

84B.¹ Power of Central Government to grant licences under patents, or designs of enemies and enemy subjects.—(1) Where—

- (a) an enemy or an enemy subject is, or has at any time subsequent to the 2nd September 1939 been, whether alone or jointly with any other person, the proprietor of a patent or registered design, or entitled to any other interest in a patent or registered design (not being merely the interest of a licensee), and
- (b) the Central Government is satisfied that it is expedient for securing the defence of British India or the efficient prosecution of the war or for maintaining supplies and services essential to the life of the community that the rights conferred by the patent should be exercised, or that the design should be applied, as the case may be, and that a person who is not an enemy or an enemy subject desires to exercise the said rights or apply the said design and is in a position so to do,

the Central Government may, on the application of that person, make an order granting to him a licence under the patent or for the application of the design, as the case may be, either for the whole of the residue of the term of the patent or the registration, or for such less period as the Central Government thinks fit.

(2) The power of the Central Government under this rule to make an order granting a licence shall include the power—

- (a) to make an order granting an exclusive licence ;
- (b) to make an order granting a licence in relation to a patent or registered design notwithstanding that a licence, whether exclusive or otherwise (not being an exclusive licence granted by virtue of the powers conferred by this rule), is in force in relation thereto ; and
- (c) to make an order granting a licence on any terms that the Central Government may think expedient.

(3) Where, under the power conferred by this rule, the Central Government makes an order granting a licence in relation to a patent or registered design, in relation to which any other licence has been granted otherwise than by an order made under this rule, the Central Government may, in relation to that other licence, make such order

- (a) revoking the licence ;
- (b) revoking or varying any conditions subject to which the licence has effect ; or

¹ Inserted by Notification No. 334-O. R. /40, dated the 17th February 1940.

(c) revoking or varying any of the provisions of a contract relating to the licence in so far as they relate thereto, as appears to it to be expedient having regard to the order made under sub-rule (1).

(4) An order granting a licence under this rule shall, without prejudice to any other method of enforcement, operate as if it were embodied in a deed granting the licence which the patentee or the proprietor of the registered design, as the case may be, and all other parties having any interest therein, had executed with full capacity so to do, and the order shall accordingly operate to take away from any such party any right in relation thereto, the exercise whereof would be inconsistent with the exercise of the licence, in accordance with and subject to the terms on which it is granted.

(5) A licensee under a licence granted under this rule may institute proceedings for infringement in his own name as though he were the patentee or the proprietor of the registered design, as the case may be, so, however, that any person other than an enemy who, whether alone or jointly with any other person, is the patentee or the registered proprietor of the registered design, as the case may be, shall, unless the court in which the proceedings are taken thinks fit to direct otherwise, be made a party to the proceedings, either—

(a) if he consents in writing thereto, as a plaintiff, or

(b) if he does not so consent, as a defendant.

Where any person is made defendant to any proceedings by virtue of this sub-rule, he shall not be liable for any costs unless he enters an appearance and takes part in the proceedings.

(6) An order granting a licence under this rule shall give directions as to the person to whom or the manner in which the licensee is to pay or deal with any royalties or other payments to be paid in respect of the licence.

(7) An order under this rule and a licence granted by such an order may be varied by a subsequent order made by the Central Government either :—

(a) where the licensee makes application to the Central Government for the variation thereof, or

(b) where the Central Government is of opinion that circumstances have arisen which make it just and equitable, or that it is expedient for the purposes specified in clause (b) of sub-rule (1), that it should be varied.

(8) An order under this rule and a licence granted by such an order may be revoked by a subsequent order made by the Central Government in any of the following cases, that is to say :—

(a) where the licensee makes application to the Central Government for the revocation thereof ;

(b) where it appears to the Central Government that it was obtained by any misrepresentation, whether intentional or not, or was made or granted without the Central Government's having full knowledge of the material facts ;

(c) where the licensee has failed to comply with any term on which the licence was granted or with a direction given under sub-rule (6), or has failed to exercise the licence in such a manner as to satisfy the reasonable requirements of the public in re-

lation to the invention or registered design, as the case may be, or has charged, unreasonable or excessive prices in respect of anything made or done in the exercise of the licence ; or

- (d) where the Central Government is of opinion that circumstances have arisen which make it just and equitable, or that it is expedient for the purposes specified in clause (b) of sub-rule (1), that it should be revoked.

(9) Any licence granted under this rule may provide that the licensee may, subject to such conditions as may be imposed by the Central Government, adopt the name used by the patentee for describing or denoting the article or substance manufactured under the patent.

(10) The fee to be paid on an application under this rule for an order—

- (a) granting a licence,
- (b) revoking any licence,
- (c) revoking or varying any conditions subject to which any licence has effect, or
- (d) revoking or varying any of the provisions of a contract relating to any licence in so far as they relate thereto,

shall be rupees twenty in respect of each patent or registered design.

84C.¹ Effect of wrong decision as to enemy character.—No order made by the Central Government under rule 84B shall be held to be invalid by reason only that any decision made for the purposes of the order that a particular person is an enemy or an enemy subject is wrong.

PART XIII.

TRANSPORT.

85. Control of lines of communication for defence purposes.—(1) The Central Government may, with a view to facilitating any operations of His Majesty's forces or the movement of persons or supplies in connexion with such operations, by general or special order—

- (a) require any railway administration to give special facilities for the transport of such forces, persons or supplies as aforesaid;
- (b) prohibit or restrict the use of any railway, port or aerodrome for such period as may be specified in the order.

(2) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

85-A². Control of carriage of goods by railways.—The Central Government may, by general or special order, direct any Railway Administration—

- (a) to give special facilities or preference for the transport of specified goods or specified classes of goods, or
- (b) to refuse to carry specified goods or specified classes of goods, either entirely or between specified points;

and notwithstanding anything to the contrary contained in the Indian Railways Act, 1890, a Railway Administration shall be bound to comply with any directions given to it under this rule.

85B³ Control of carriage of persons by railways.—(1) The

¹ Inserted by Notification No. 334-O. R./40, dated the 17th February 1940.

² Inserted by Notification No. 290-O. R./39, dated the 27th November 1939.

³ Inserted by Notification No. 378-O. R./40, dated the 6th April, 1940.

Central Government or the Provincial Government may by order—

- (a) require that any specified person or class of person, or persons proposing to travel to specified destinations, shall not be carried on a railway; and
 - (b) prohibit the travelling by railway of any specified person or class of persons.
- (2) Notwithstanding anything to the contrary contained in the Indian Railways Act, 1890, a railway administration shall be bound to comply with any order made under clause (a) of sub-rule (1).
- (3) If any person contravenes any order made under clause (b) of sub-rule (1), he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.
- 86. Control of traffic at ports and aerodromes.**—(1) Without prejudice to any order made under sub-rule (1) of rule 60 or to the provisions of any other of these Rules, the Central Government may by order make provision—

- (a) for prohibiting, restricting or otherwise controlling the shipping or unshipping of persons, animals or goods or any specified class of persons, animal or goods at any port;
 - (b) for prohibiting, restricting or otherwise controlling the embarking on or putting on board aircraft, or the disembarking or unloading from aircraft, of persons, animals or goods, or any specified class of persons, animals or goods, at any aerodrome;
 - (c) generally for regulating, facilitating, or expediting any form of traffic at or in any port or aerodrome.
- (2) If any person contravenes any order made under this rule, he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

87. Congestion of traffic at ports and aerodromes and on railways.—(1) The appropriate authority may, for the purpose of preventing or avoiding any undue congestion at any port or aerodrome or on any railway premises, cause to be removed therefrom, and kept at such places as that authority thinks proper, any goods which are not removed with reasonable despatch by or on behalf of the consignee.

(2) The cost of the removal and custody of any goods under sub-rule (1) shall be recoverable from the consignee as an arrear of land revenue by the appropriate authority, which for the purposes of such recovery shall be deemed to be a public officer within the meaning of section 5 of the Revenue Recovery Act, 1890.

(3) For the purposes of this rule, the expression "appropriate authority" means—

- (a) in respect of a port, the port authority of the port, or any person authorised by that authority in this behalf;
- (b) in respect of an aerodrome, the Director of Civil Aviation;
- (c) in respect of any railway premises, the officer authorised in this behalf by the railway administration concerned.

88. Handling and conveyance of ammunition, etc.—(1)¹ The Central Government may by notified order declare that nothing in any restriction imposed by or under any law for the time being in force shall apply

¹ Sub-rule (1) substituted by Notification No. 496-O. R/40, dated the 20th June 1940.

to the loading unloading, handling, storage or conveyance, * *¹ of ammunition, explosives or inflammable substances in the service of His Majesty, or under instructions given on behalf of Government, or for purposes of defence.

(2) When a declaration has been made under sub-rule (1), the Central Government may by order make such provision as appears to it to be required in the interests of safety for regulating the loading, unloading, handling, storage, and conveyance of ammunition, explosives and inflammable substances to which the declaration applies.

(3) In this rule the expression "port" includes an inland steamer station and ferry station.

88-A.² Vehicles belonging to the Central Government.—(1) If it appears to the Central Government to be necessary or expedient to do for securing the defence of British India or the efficient prosecution of war, the Central Government may by notified order declare that nothing in any restriction imposed by or under any law for the time being in force shall apply to, or to the driver or person in charge of, any vehicle or class of vehicles which is the property of the Central Government in the Defence Department or which is otherwise in the service of His Majesty for purposes of defence.

(2) When a declaration has been made under sub-rule (1), the Central Government may by order make such provision as appears to it to be required in the interests of safety for regulating the use of the vehicle or class of vehicles to which, or the qualifications or conduct of the driver or person in charge to whom, the declaration applies.

89. Control of road transport.—(1) In this rule—

(a) "vehicle" means any vehicle used, or capable of being used, for the purpose of road transport, whether propelled by mechanical power or otherwise, and whether used for drawing other vehicles or otherwise, and includes a tramcar and a trolley vehicle;

(b) "animal" means any animal used, or capable of being used, for the transport of persons or goods.

(2) Without prejudice to any other provision of these Rules, the Central Government or the Provincial Government may by order—

(a) regulate, restrict or give directions with respect to, the use of any animal or vehicle for the purpose of road transport, or the sale or purchase of any animal or vehicle;

(b) require any person owning, or having in his possession or under his control, any animal or vehicle to make to any person specified in this behalf a return giving such particulars as may be specified in the order with regard to such animal or vehicle and require such return to be verified in such manner as may be specified in the order;

(c) require any person owning, or having in his possession or under his control, any animal or vehicle to give notice in such

¹ The Words "in any port, aerodrome or railway station, or in or from any vessel, aircraft or railway train," omitted by Notification No. 496-O. R./40, dated the 14th September 1940.

² Inserted by Notification No. 262-O. R./39, dated the 28th September 1940.

- manner as may be specified in the order before disposing thereof or allowing it to pass out of his possession or control;
- (d) require any person owning, or having in his possession or under his control, any animal or vehicle to comply with any directions given by any person specified in, or duly authorised in pursuance of, the order; and such directions may require the person owning, or having in his possession or under his control, any animal or vehicle to use such animal or vehicle for the conveyance of such persons or goods at such time and by such routes as may be set forth in the directions;
 - (e) prescribe the conditions subject to which, and the rates at which, any animal or vehicle may be hired for the purpose of road transport and persons or goods may be carried by road, and the conditions subject to which goods so carried or to be carried may be discharged or loaded;
 - (f) provide for prohibiting or restricting the carriage of persons or goods of any class by road, and for prescribing the radius or distance within which persons or goods of any class may be carried by road;
 - (g) provide for the giving of directions with respect to the carriage of persons or goods on any particular vehicle, or by any particular route, or to any particular clearing-house or depot;
 - (h) provide for the regulation of the priority in which persons and goods are to be carried by road and vehicles are to be used for the purpose of road transport;
 - (i) make such other provisions in relation to road transport as appear to that Government to be necessary or expedient for the regulation of traffic on highways.
- (3) If any person contravenes any order made in pursuance of this rule, he shall be punishable with imprisonment for a term which may extend to six months and shall also be liable to fine.

PART XIV.

FINANCIAL PROVISIONS.

90. *Prohibitions regarding coin and notes.*—(1)¹ In this rule,—

- (i) the expression "coin" means coin which is legal tender under the Indian Coinage Act, 1906; and
 - (ii) the expression "note" means a Reserve Bank of India note, a currency note of the Government of India, or a Government of India one rupee note issued under the Currency Ordinance, 1940.
- (2) No person shall—
- (a) buy or sell, or offer to buy or sell, for an amount other than its face value, any coin or note²; or
 - (b) accept or offer to accept, in payment of a debt or otherwise, any * ² coin or note for an amount other than its face value; or

¹ Substituted by Notification No. 494-O. R./40, dated the 31st August 1940.

² Word 'such' omitted by Notification No. 494-O. R./40, dated the 31st August 1940.

- (c) *refuse to accept, in payment of a debt or otherwise, any coin or note*¹ [; or
- (d) acquire coin to an amount in excess of his personal or business requirements for the time being which, in the case of, an acquisition of coin from any Currency office, Treasury, Sub-Treasury or branch of the Imperial Bank of India doing treasury business, shall be determined by the officer in charge of such Currency office, Treasury, Sub-Treasury or branch whose determination shall be final and shall not be called in question in any legal proceeding.]²
- (3) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

90-A⁴. Control of use, etc., of imported silver.—(1) The Central Government may, if it is of opinion that it is expedient so to do for the purpose of controlling the price of silver in British India, impose on any person authorised to import silver into British India such conditions as it thinks fit regarding the use or disposal of, or dealings in, silver imported in pursuance of such authorisation.

(2) If any person contravenes any of the conditions imposed under sub-rule (1) he shall, without prejudice to any other action that may be taken against him, be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

90B⁵. Restriction on export of money.—(1) In this rule "money" means any coin or currency note which is legal tender in British India or elsewhere, and include bills of exchange.

(2) No person shall, except with the permission of the Reserve Bank of India or of a person authorised in this behalf by the said Bank, take or send out of British India to a place or country outside India and Burma money in excess of such amount as may be specified in this behalf by the said Bank.

(3) Any person who on any occasion is about to leave British India for a place outside India and Burma (which person is hereafter in this rule referred to as the "traveller") shall, if on that occasion he is ordered so to do by an Officer of Customs,—

- (a) declare with full details the money he has with him, and
- (b) produce for the inspection of the officer the money, and the permission, if any, granted in pursuance of sub-rule (2).
- (4) Any officer of customs, and any person acting under the directions of such officer, may—
 - (a) examine or search any article which the traveller has with him, for the purpose of ascertaining whether he is conveying or has in his possession any money in contravention of the provisions of this rule;
 - (b) if he has reasonable ground for suspecting that the traveller has about his person any money which he has not produced for inspection, search the person of the traveller;
 - (c) seize any money produced for inspection under sub-rule (3) or found upon examination or search under this sub-rule, being

¹ Word 'such' omitted by notification No. 494-O. R./40, dated the 31st August 1940.

² Inserted by Notification No. 494-O. R./40, dated the 10th June 1940.

³ Inserted by Notification No. 494-O. R./40, dated the 25th June 1940.

⁴ Inserted by Notification No. 7773-F., dated the 18th December 1939.

⁵ Inserted by Notification No. 591-O. R./40, dated the 2nd November 1940.

money which the traveller has in his possession in contravention of the provisions of this rule:

• Provided that no female shall be searched in pursuance of the provisions of this sub-rule, except by a female.

(5) If, upon his being ordered to make a declaration or to produce any money under the provisions of sub-rule (3), any person knowingly makes a declaration which is false or not true, or fails to produce the money, he shall be deemed to have contravened the provisions of this rule.

(6) Any money seized in pursuance of the provisions of this rule shall be disposed of, in such manner as the Central Government may by general or special order direct.

(7) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

91. Restriction on purchases of foreign exchange.—(1) For the purposes of this rule and of rule 92, the expression "foreign exchange" means—

(a) any currency other than currency which is legal tender in British India or Burma,

(b) any bill or promissory note, payable otherwise than in rupees, and,

(c) any credit or balance otherwise than in rupees.

(2) No person resident in British India shall acquire any foreign exchange, or transfer rupees, gold coin or bullion, or securities with a view, directly or indirectly, to the acquisition of any foreign exchange.

(3) No person shall buy or borrow from, or sell or lend to, any person not authorised by the [Reserve Bank of India]¹ in this behalf, any foreign exchange, *other than gold sovereigns*.²

(4) The provisions of this rule shall not restrict the doing of anything, within the scope of his authority, by a person authorised [by the Reserve Bank of India]¹ to deal in foreign exchange, and shall not restrict the doing of anything which is authorised [by the Reserve Bank of India]¹ to be necessary for the purposes—

(a) of meeting the reasonable requirements of a trade or business carried on in India, or

(b) of performing a contract made before the 3rd September 1939, or

(c) of defraying reasonable travelling or other personal expenses.

(5) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term, which may extend to five years, and shall also be liable to fine.

92 Acquisition by the Central Government of foreign exchange.—

(1)³ The Central Government may by notified order direct the owners of any such foreign exchange as is specified in the order to make a return to the Reserve Bank of India within such period, and giving such particulars as to the foreign exchange, as may be specified in the order.

(2) On the issue of a notification by the Central Government in this behalf, every person who owns any such foreign exchange as may be specified in that notification shall offer it, or cause it to be offered,

¹ Substituted by Notification No. 123-S. R. B., dated 4th September 1939.

² Substituted by Notification No. 634-O. R./41, dated the 4th February 1941.

³ Inserted by Notification No. 510-O. R./40, dated the 29th June 1940.

for sale to the Reserve Bank of India on behalf of the Central Government at such price as the Central Government may from time to time fix :

Provided that—

(a) any person may be exempted from the operation of this rule by order of the Central Government, and

(b) any person, who satisfies the Reserve Bank of India that he requires the foreign exchange in question for any of the purposes specified in sub-rule (4) of rule 91 shall be exempt from the operation of this rule.

(3) If any person contravenes the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

93. Restriction on purchases and export of securities.—(1) For the purposes of this rule and rule 94—

(i) the expression "securities" includes shares, stock, bonds, debentures and debenture stock but does not include bills of exchange, and

(ii) the expression "export", in relation to securities, includes the transfer thereof from a register in India to a register outside India or Burma.

(2) No person shall, except with the permission of the [Reserve Bank of India]¹ or in the performance of a contract made before the 3rd September, 1939, acquire any securities from a person not resident in India or Burma.

(3) No person shall, except with the permission of the [Reserve Bank of India]¹ export securities to any place outside India or Burma.

(4) If any person contravenes the provisions of this rule, he shall be punishable with imprisonment for a term, which may extend to five years, and shall also be liable to fine.

94. Acquisition by the Central Government of foreign securities.—(1) For the purposes of this rule—

(i) "foreign security" means a security issued in any country other than India or Burma;

(ii) "owner," in relation to any security, includes any person who has power to sell or transfer a security, or who has the custody thereof, or who receives, whether on his own behalf or on behalf of any other person, dividends or interest thereon, or who has any interest therein.

(2) The Central Government may, by notified order, direct the owners of any foreign securities specified in the order² to make a return to the Reserve Bank of India, within such period and giving such particulars as to those securities, as may be specified in the order.

(3) The Central Government may, if it is of the opinion that it is expedient so to do for the purpose of strengthening its financial position, by notified order transfer to itself any foreign securities² as aforesaid specified in the order at a price so specified being a price which, in the opinion of the Central Government, is not less than the market value of the securities on the date of the order.

¹ Substituted by Notification No. 123-S. R. B., dated the 4th September 1939.

² Substituted by Notification No. 664-O.R./41, dated the 25th January 1941.

(4) On the making of an order under sub rule (3)—

(a) the securities to which the order relates shall forthwith vest in the Central Government free from any mortgage, pledge or charge, and the Central Government may deal with them in such manner as it thinks fit;

(b) the owner of any of the securities to which the order relates and any person who is responsible for keeping any registers or books in which any of those securities are registered or inscribed, or who is otherwise concerned with the registration or inscription of any of those securities, shall do all such things as are necessary, or as the Central Government or the Reserve Bank of India, on behalf of the Central Government, may order to be done, for the purpose of securing that the securities and any documents of title relating thereto are delivered to the Central Government and, in the case of registered and inscribed securities, that the securities are registered or inscribed in the name of the Central Government.

(5) A certificate signed by any person authorised in this behalf by the Central Government that any specified securities are securities transferred to the Central Government under this rule, shall be treated by all persons concerned as conclusive evidence that the securities have been so transferred.

(6) The provisions of this rule shall not apply to any security in respect of which the Central Government is satisfied that at all times since the 3rd September, 1939, all persons interested in the security, other than persons interested therein merely as trustees or merely by virtue of any mortgage, pledge or charge, but including any persons beneficially interested therein under the trust, were not resident in British India.

(7) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

95. Banks to satisfy themselves that provisions are not contravened.—Before making any payment or transfer of funds at the request of any person, a bank shall require any declarations and information which may be reasonably necessary to satisfy it that the payment or transfer will not involve, and is not with a view to, the contravention of any of the provisions of these Rules by that or any other person.

96. Compensation.—(1) Whenever in pursuance of any of rules 49, 56, 72, 76, 78, 79, 80 and 81, any property is removed, destroyed, rendered useless, used or requisitioned by, or otherwise placed at the disposal of under the control of, the Central Government or a Provincial Government [and the circumstances are not such as to render the provisions of section 19 of the Defence of India Act, 1939¹, applicable],² the owner of such property shall be paid such compensation for any loss

¹ Substituted by Notification No. 261-O. R./39, dated the 14th November 1939.

² Inserted by Notification No. 209-O. R./39, dated the 6th October 1939.

he may have sustained as a result of such removal, destruction, rendering useless, use, requisitioning, disposal or control, as may be fixed in accordance with the provisions of this rule.

(2) [In default of agreement between Government and the owner of the property, the Central Government]¹ or the Provincial Government, as the case may be, shall by general or special order specify the authority or person through which or whom any claim for compensation under *sub rule (1)*¹ shall be submitted and the authority or person by which or whom any such claim shall be adjudged and awarded.

(3) The Central Government or the Provincial Government, as the case may be, may further by general or special order prescribe the conditions to which the authority or person responsible for adjudging or awarding claims for compensation shall have regard when determining the amount of compensation payable, and may give such supplementary orders as to the assessment and payment of compensation as may appear to it to be necessary or expedient.

PART XV.

CONTROL OF TRADING WITH ENEMY.

97. Definition.—For the purposes of this Part the expression “enemy” means—

- (a) any State, or Sovereign of a State, at war with His Majesty, or
- (b) any individual resident in enemy territory, or
- (c) any body of persons constituted or incorporated in enemy territory, or in, or under the laws of, a State at war with His Majesty,² or
- (d) any other person or body of persons declared by the Central Government to be an enemy, or
- (e) any body of persons (whether corporate or unincorporate) carrying on business in any place, if and so long as the body is controlled by a person who, under this rule, is an enemy.

98. Prohibition of trading with the enemy.—(1) For the purposes of this Part a person shall be deemed to have traded with the enemy if he has had any commercial, financial or other intercourse or dealings with, or for the benefit of, an enemy, and, in particular, but without prejudice to the generality of the foregoing provision, if he has—

- (i) supplied any goods to or for the benefit of an enemy, or obtained any goods from an enemy, or traded in, or carried, any goods consigned to or from an enemy or destined for or coming from enemy territory, or
- (ii) paid or transmitted any money, negotiable instrument or security for money, to or for the benefit of an enemy or to a place in enemy territory, or
- (iii) performed any obligation to, or discharged any obligation of, an enemy, whether the obligation was undertaken before or after the commencement of the Ordinance :

Provided that a person shall not be deemed to have traded with the enemy by reason only that he has—

¹ Substituted by Notification No. 209-O. R./39, dated the 4th November 1939.

² Substituted by Notification No. 408-O. R./40, dated the 23rd April 1940.

- (a) done anything under an authority given generally or specially by, or by any person authorised in that behalf by, the Central Government, or
- (b) received payment from an enemy of a sum of money due in respect of a transaction under which all obligations on the part of the person receiving payment had been performed before the commencement of the Ordinance.
- (2) Any reference in this rule to an enemy shall be construed as including a reference to a person acting on behalf of an enemy.
- (3) Any person who trades with the enemy shall be punishable with imprisonment for a term which may extend to seven years and shall also be liable to fine.

99 *Control of rights, etc., in respect of trading with the enemy.*—No transaction which constitutes an offence of trading with the enemy shall, except to such extent as the Central Government may by general or special order regulate, be effective so as to confer any rights or remedies on the parties to such transaction or on any persons claiming under them.

100 *Power to appoint Controllers, etc., of Enemy Trading.*—The Central Government may, either generally or for any particular area, appoint one or more Controllers, Deputy Controllers and Inspectors, of Enemy Trading, for securing compliance with the provisions of this Part, and may, by general or special order, provide for the distribution and allocation of the work to be performed by them under these Rules.

100-A. *Powers of Controllers, etc., of Enemy Trading.*—(1) If a Controller, or Deputy Controller, of Enemy Trading has reasonable cause to believe that an offence punishable under rule 98 has been, or is likely to be, committed, he may—

- (a) inspect or cause to be inspected any books or documents belonging to, or under the control of, any person.
 - (b) order any person to give such information in his possession with respect to any business carried on by that or any other person as the Controller or Deputy Controller, as the case may be, may demand, and for the purposes aforesaid, may—
 - (i) enter and search, or authorise a police officer not below the rank of Sub-Inspector to enter and search, any premises used for the purposes of the said business,
 - (ii) summon any person, examine him on oath, reduce his answers to writing and require him to sign the writing, and
 - (iii) if any person so summoned fails to appear at the time appointed, cause him to be apprehended by a police officer and brought before him for examination
- (2) A Controller, or Deputy Controller, of Enemy Trading may by order in writing delegate his powers in any particular case to an Inspector of Enemy Trading.

101. *Supervision of suspected business.*—If in order to secure compliance with the provisions of this Part the Central Government considers it expedient so to do, it may by order direct that the business

¹ Substituted by Notification No. 486-O. R/40, dated the 1st June 1940.

of any person (hereinafter referred to as the suspected person) shall be subject to supervision; and, thereupon a Controller of Enemy Trading and any person authorised by a Controller in this behalf shall have in relation to that business—

- (a) all the powers mentioned in rule 100-A.
- (b) the power to prohibit or regulate by means of written instructions to the suspected person or his agents or employees any transactions or class of transactions of that person, and
- (c) such other powers as may from time to time be conferred on him by the Central Government.

101-A.¹ Penalty for failure to comply with orders of controllers, etc.—If any person contravenes any order lawfully given by any Controller, Deputy Controller, or Inspector, of Enemy Trading, or any person authorised by a Controller under rule 101, that person shall be punishable with imprisonment for a term which may extend to six months and shall also be liable to fine.

102. Penalty for concealment, destruction etc., of books or documents.—If any person with intent to evade the provisions of this Part conceals, destroys, mutilates, or defaces any book or other document, that person shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

PART XVI.

CONTROL OF ENEMY FIRMS.

103. Definition.—In this Part—

- (1) *Enemy subject*.—"Enemy subject" means—
 - (a) any individual who possesses the nationality of a State at war with His Majesty, or having possessed such nationality at any time has lost it without acquiring another nationality, or
 - (b) any body of persons constituted or incorporated in or under the laws of such State;
- (2) *Enemy firm*.—"Enemy firm" means—
 - (a) any enemy subject who is, or at any time subsequent to the 2nd September 1939, was carrying on any business in British India, or
 - (b) any firm, whether constituted in British India or not, of which any member or officer is, or at any time subsequent to the 2nd September 1939, was an enemy subject, and which is, or at any time subsequent to the 2nd September 1939, was carrying on business in British India, or
 - (c) any company, whether incorporated in British India or not, of which any officer is, or at any time subsequent to the 2nd September 1939 was an enemy subject, and which is, or at any time subsequent to the 2nd September 1939, was carrying on business in British India, or
 - (d) any person or body of persons, whether incorporated or not, who or which in the opinion of the Central Government is, or at any time subsequent to the 2nd September 1939, was carrying on business in British India—
 - (i) under the control whether direct or indirect of any enemy subject, or

¹ Substituted by Notification No. 486-O.R./40, dated the 1st June 1940.

- (ii) wholly or mainly for the benefit of enemy subjects generally or any class of enemy subjects or any individual enemy subject ;

¹ Provided that in relation to subjects of a State which became, or becomes, a State at war with His Majesty later than the 3rd September 1939, all references to the 2nd September 1939 in the above definition shall be read as referring to the date immediately preceding the date on which the said State became, or becomes, a State at war with His Majesty.

(3) *Enemy currency*.—“Enemy currency” means any such notes or coins as circulate as currency in any enemy territory or any such other notes or coins as are for the time being declared by an order of the Central Government to be enemy currency ;

(4) *Enemy property*.—“Enemy property” means any property for the time being belonging to or held or managed on behalf of an enemy as defined in rule 97, an enemy subject² or an enemy firm ;

(5) *Securities*.—“Securities” includes shares, stock, bonds, debentures and debenture stock, but does not include bills of exchange.

104. Prohibition of trade with enemy firms [and purchase of enemy currency].³—No person shall, directly or indirectly—

- (a) advance money to, or enter into any contract with, an enemy firm ; or
- (b) pay any sum of money to, or for the benefit of, an enemy firm ; or
- (c) give any security for the payment of any debt or any other sum of money for the benefit of an enemy firm ; or
- (d) act on behalf of an enemy firm in drawing, accepting, paying, presenting for acceptance or payment, negotiating or otherwise dealing with, any negotiable instrument ; or
- (e) accept, pay, or otherwise deal with, any negotiable instrument which is held by, or on behalf of, an enemy firm ; or
- (f) enter into any new transaction, or complete any transaction already entered into, with an enemy firm in respect of any stocks, shares or other securities ; or
- (g) make or enter into any new policy or contract of insurance (including re-insurance) or accept or give effect to any insurance of any risk arising under a policy or contract of insurance (including re-insurance) made or entered into with, or for the benefit of, an enemy firm ; or
- (h) supply to, or for the use or benefit of, or obtain from, an enemy firm, any goods, wares or merchandise, or trade in or carry any goods, wares or merchandise destined for an enemy firm ; or
- (i)⁴ enter into any other commercial or financial obligation or contract with, or for the benefit of, an enemy firm.

(2) In any proceeding arising out of a contravention of [clause (e)]⁵

¹ Proviso inserted by Notification No. 498-O.R./40, dated the 27th July 1940.

² Substituted by Notification No. 485-OR./40 dated the 1st June 1940.

³ Inserted by Notification No 566-O.R./40, dated the 14th September 1940.

⁴ Clause (j) re-lettered as clause (i) by Notification No. 566-O. R./40, dated the 14th September 1940.

⁵ Substituted by Notification No. 566-O. R./40, dated the 14th September 1940.

of sub-rule (1) it shall be a defence for the accused to prove that at the date of the contravention he had no reasonable ground for believing that the negotiable instrument was held by or on behalf of an enemy firm.

(2A)¹ No person shall, directly or indirectly, purchase enemy currency.

(3) Nothing in this rule shall be deemed to prohibit anything expressly permitted by or under the authority of His Majesty or the Central Government.

(4) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to seven years and shall also be liable to fine.

105. Power to appoint Controllers, etc. of Enemy firms.—The Central Government may, either generally or for any particular area, appoint one or more *Controllers*,² Deputy Controllers and Inspectors, of Enemy Firms, for securing compliance with the provisions of this Part, and may, by general or special order, provide for the distribution and allocation of the work to be performed by them under these Rules.

106. Powers of Controllers, etc. of Enemy Firms.—If a Controller, Deputy Controller or Inspector, of Enemy Firms has reasonable cause to believe that an offence punishable under rule 104 has been, or is likely to be, committed, he may—

(a) inspect or cause to be inspected any books or documents belonging to, or under the control of, any person,

(b) order any person to give such information in his possession with respect to any business carried on by that or any other person as the Controller, Deputy Controller or Inspector, as the case may be, may demand,

and for the purposes aforesaid, may

(i) enter on any premises used for the purposes of the business,

(ii) summon any person, examine him on oath, reduce his answers to writing and require him to sign the writing,

(iii) if any person so summoned fails to appear at the time appointed, cause him to be apprehended by a police officer and brought before him for examination.

107³ Supervision of suspected business.—If it appears to a Controller of Enemy Firms that it is expedient for securing compliance with the provisions of this Part that any business should be subject to supervision, he may by order in writing direct that the business shall be subject to supervision, and thereupon any Controller, Deputy Controller, or Inspector of Enemy Firms may for the purposes of such supervision exercise all or any of the powers mentioned in rule 106, and such other powers as may from time to time be conferred on him by the Central Government.

107-A.³ Supervision of firms suspected to be enemy firms.—(1) If it appears to a Controller of Enemy Firms that it is expedient for securing compliance with the provisions of this Part that the business of a person or body of persons suspected by him to be an enemy firm

¹ Inserted by Notification No. 566-O.R./dated the 14th September 1940.

² Substituted by Notification No. 361-O.R./40, dated the 4th March 1940.

³ Substituted by Notification No. 541-O.R./40, dated the 10th August 1940.

should be subject to supervision, he may, pending a decision by the Central Government in the matter, by order in writing direct that the business shall be subject to supervision for a period which shall not, without the previous sanction of the Central Government, exceed one month; and, thereupon, any Controller, Deputy Controller or Inspector of Enemy Firms may—

- (a) exercise, for the purposes of such supervision, all or any of the powers mentioned in rule 106;
- (b) by order in writing cancel any transaction of the firm which, in his opinion, is injurious to the public interest or is intended to evade the provisions of this Part;
- (c) authorise the business of the firm to be carried on under such management as may be approved by him or subject to such conditions as he may deem fit to impose;
- (d) himself carry on the business of the firm, if, in his opinion, no suitable management is available.

(2) Where a business is subjected to supervision under sub-rule (1), the Central Government may direct the Controller to recover from the assets of the firm concerned such fee, not exceeding the cost of supervision, as the Central Government may deem fit to impose.

108. Penalty for failure to comply with orders of Controller, etc.—If any person contravenes any order lawfully given by any Controller, Deputy Controller, or Inspector, of Enemy Firms, that person shall be punishable with imprisonment for a term which may extend to six months and shall also be liable to fine.

109. Penalty for concealment, destruction, etc. of books or documents.—If any person with intent to evade the provisions of this Part conceals, destroys, mutilates or defaces any book or other document which a Controller, Deputy Controller, or Inspector, of Enemy Firms is empowered under rule 106 or rule 107 to inspect, that person shall be punishable with imprisonment for a term which may extend to five years and shall also be liable to fine.

110. Contracts with enemy firms.—Where it appears to the Central Government that a contract entered into with an enemy firm, whether before or after the commencement of the Ordinance, is injurious to the public interest, or was entered into with a view to evade the provisions of this Part, the Central Government may by order cancel or, determine such contract either unconditionally or upon such conditions as it thinks fit.

111. Transfer of property to or by enemy firms.—(1) Where it appears to the Central Government that a transfer of property moveable or immoveable, made to, or by, an enemy firm, whether before or after the commencement of the Ordinance, is injurious to the public interest or was made with a view to evade the provisions of this Part, the Central Government may, by order, declare such transfer, and any subsequent transfer or sub-transfer of the same property or part thereof, to be void, either in whole or in part, or may impose such conditions on the transferee as it thinks fit.

(2) On the making of an order under sub-rule (1) declaring any transfer, subsequent transfer, or sub-transfer of any property to be void, that property shall, with effect from the date of the order, be deemed to be re-vested in the original transferor.

112. *Transfer and allotment of securities to or by enemy firms.*—(1) If any securities are transferred by, or allotted or transferred to, an enemy firm, then, except with the sanction of the Central Government, the transferee or allottee shall not by virtue of the transfer or allotment have any rights or remedies in respect of the securities; and no body corporate by which the securities were issued, or are managed, shall take cognisance of, or otherwise act upon, any such transfer except under the written authority of the Central Government.

(2) No share warrants, stock certificates or bonds shall be issued, payable to bearer, in respect of securities registered or inscribed in the name of an enemy firm or of a person acting on behalf, or for the benefit, of an enemy firm.

(3) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to six months and shall also be liable to fine.

113. *Transfer of negotiable instruments and actionable claims by enemy firms.*—No transfer of a negotiable instrument or an actionable claim by or on behalf of an enemy firm nor any subsequent transfer thereof shall, except with the sanction of the Central Government, be effective so as to confer any rights or remedies in respect of the negotiable instrument or, as the case may be, the actionable claim.

(2) If any person by payment or otherwise purports to discharge any liability from which he is relieved by sub-rule (1), knowing the facts by virtue of which he is so relieved, he shall be punishable with imprisonment for a term which may extend to six months and shall also be liable to fine:

Provided that in any proceedings in pursuance of this sub-rule it shall be a defence for the accused to prove that at the time when he purported to discharge the liability in question he had reasonable grounds for believing that the liability was enforceable against him by order of a competent court, not being a court in India or in a State at war with His Majesty, and would be enforced against him by such an order.

(3) Where a claim in respect of a negotiable instrument or an actionable claim is made against any person who has reasonable cause to believe that, if he satisfies the claim, he would thereby be committing an offence punishable under sub-rule (2) that person may pay into a competent civil court any sum which but for the provisions of sub-rule (1) would be due in respect of the claim and thereupon the payment shall for all purposes be a good discharge to that person.

113A.¹ *Power to carry on business of enemy firm.*—(1) Where it appears to the Central Government that the control or management of an enemy firm has been, or is likely to be, so affected by the state of war as to prejudice the effective continuance of its trade or business, and that it is in the public interest that the trade or business should continue to be carried on, the Central Government may by order authorise a person to carry on the trade or business in such manner and to such extent as may be prescribed.

(2) While a person authorised under sub-rule (1) is carrying on the trade or business of an enemy firm—

(a) such person shall be deemed to be acting as the agent of the firm [and, subject only to such restrictions as the Central

¹ Inserted by Notification No. 288-Q.R./39, dated the 25th November 1939.

Government may impose, shall have in relation to the management of the affairs of the firm all such powers and authority as the firm itself would have if it were not an enemy firm],¹

[Provided that any person having any commercial, financial or other intercourse or dealings with such person while so acting, shall not, merely by reason of such intercourse or dealings, be deemed to have contravened the provisions of rule 98 or rule 104]²;

(b) such person shall be entitled to the management of the affairs of the firm to the exclusion of any other person, acting or purporting to act on behalf of the firm, and for the purposes of such management shall be entitled to employ such staff or other agency as he thinks fit ;

(c) such person shall not, in respect of such matters relating to the said management as may be specified by order of the Central Government, be bound by any obligation or limitation imposed on him as agent of the firm by or under any law, instrument or contract ;

(d) such person shall be entitled to retain out of the assets of the firm all costs, charges and expenses of, or incidental to, the said management, and such remuneration as may be prescribed ; and

(e) the firm shall not have the right to control the carrying on of the trade or business.

(5) No person authorised under sub-rule (1) to carry on the trade or business of an enemy firm shall be personally liable for acts done by him in good faith in the course of management of such trade or business.

(4)³ The provisions of this rule shall apply also in relation to a body of persons, whether incorporate or unincorporate, which is an enemy as defined in rule 97 and which is or at any time subsequent to the 2nd September 1939, was, carrying on business in British India, as they apply in relation to an enemy firm.

114. Collection of debts of enemy firms and custody of property.—(1) With a view to preventing the payment of moneys to an enemy firm or a person who is an enemy as defined in rule 97⁴ and preserving enemy property in contemplation of arrangements to be made at the conclusion of peace, the Central Government may appoint [a Custodian of Enemy Property for British India and one or more Deputy Custodians and Assistant Custodians of Enemy Property for such local areas as may be prescribed]⁵, and may by order—

(a) require the payment to the prescribed custodian of money which would but for these rules be payable to or for the benefit of an enemy firm or a person who is an enemy as defined in rule 97⁴ or which would but for the provisions of rule 110 and rule 113 be payable to any other person;

¹ Inserted by Notification No. 569-O.R./40, dated the 21st September 1940.

² Inserted by Notification No. 288-O.R./39, dated the 5th January 1940.

³ Inserted by Notification No. 569-O.R./40, dated the 21st September 1940.

⁴ Inserted by Notification No. 485-O.R./40, dated the 1st June 1940.

⁵ Substituted by Notification No. 241-O.R./39, dated the 3rd October 1939.

- (b) vest, or provide for and regulate the vesting, in the prescribed custodian such enemy property as may be prescribed;
- (c) vest in the prescribed custodian the right to transfer such other enemy property as may be prescribed, being enemy property which has not been, and is not required by the order to be, vested in the custodian;
- (d) confer and impose on the [custodian]¹ and on any other person such rights, powers, duties and liabilities as may be prescribed as respects—
 - (i) property which has been, or is required to be, vested in a custodian by or under the order.
 - (ii) property of which the right of transfer has been, or is required to be, so vested,
 - (iii) any other enemy property which has not been, and is not required to be, so vested,
 - (iv) money which has been, or is by the order required to be, paid to a custodian;
- (e) require the payment of the prescribed fees to the [custodian]¹ in respect of such matters as may be prescribed and regulate the collection of and accounting for such fees;
- (f) require any person to furnish to the custodian such returns, accounts and other information and to produce such documents, as the custodian considers necessary for the discharge of his functions under the order;

and any such order may contain such incidental and supplementary provisions as appear to the Central Government to be necessary, or expedient for the purposes of the order.

(2) Where any order with respect to any money or property is addressed to any person by a custodian and accompanied by a certificate of the custodian that the money or property is money or property to which an order under sub-rule (1) applies, the certificate shall be evidence of the facts stated therein, and if that person complies with the order of the custodian, he shall not be liable to any suit or other legal proceeding by reason only of such compliance.

(3) Where, in pursuance of an order made under sub-rule (1)—

- (a) any money is paid to a custodian, or
- (b) any property, or the right to transfer any property, is vested in a custodian, or
- (c) an order is given to any person by a custodian in relation to any property which appears to the custodian to be property to which the order under sub-rule (1) applies,

neither the payment, vesting nor order of the custodian, nor any proceedings in consequence thereof, shall be invalidated or affected by reason only that at a material time—

- (i) some person who was or might have been interested in the money or property, and who was an enemy firm, had died or had ceased to be an enemy firm, or
- (ii) some person who was so interested, and who was believed by the custodian to be an enemy firm, was not an enemy firm.

¹ Substituted by Notification No. 241-O. R./39, dated the 3rd October 1939.

(3A)¹ In sub-rules (1), (2) and (3), the expression "custodian" includes a Deputy Custodian of Enemy Property and an Assistant Custodian of Enemy Property.

(4) If any person pays any debt or deals with any property to which any order under sub-rule (1) applies otherwise than in accordance with the provisions of the order, he shall be punishable with imprisonment for a term which may extend to six months and shall also be liable to fine; and the payment or dealing shall be void.

(5) If any person without reasonable cause fails to produce or furnish in accordance with the requirements of an order under sub-rule (1) any document or information which he is required under the order to produce or furnish, he shall be punishable with imprisonment for a term which may extend to six months and shall also be liable to fine.

114A.² Winding up of companies which are enemy firms.—(1) The Central Government may by order direct the winding up of a company which is an enemy firm.

(2) An order made under sub-rule (1) shall, on notification in the official Gazette, have effect as if it were a winding up order made by a Court under the Indian Companies Act, 1913, and the provisions of that Act relating to winding up by the Court, and of the rules made thereunder, subject to such exceptions, additions and modifications as the Central Government may by general or special order prescribe, shall apply to the winding up of the company :

Provided that the functions conferred by the said Act and rules shall be functions of the Central Government or of such other authority as may be specified in the general or special order :

Provided further that the assets of the company and any money resulting from the realization of any part thereof shall be disposed of in such manner as the Central Government may direct.

3. Where an order has been made under sub-rule (1) directing the winding up of a company, neither the company nor any other person shall commence or initiate, while that order remains in force, any proceedings of a like nature or calculated in any way to interfere with the carrying out of that order.

PART XVII.

MISCELLANEOUS PROVISIONS.

115. Derelict articles.—(1) If any person finds any article as to which he has reasonable cause to believe that it has been lost or abandoned, and that, prior to its loss or abandonment, it was used or intended to be used for the purposes of any armed force or was in the possession of a person who was serving with an armed force, the person so finding the article—

(a) shall report the nature and situation thereof, or, if the article is a document, cause it to be delivered, to some member of His Majesty's forces on duty in the neighbourhood or to the officer in charge of a police station in the neighbourhood ; or if the article is found outside British India, shall take such steps as are practi-

¹ Inserted by Notification No. 241-O. R./39, dated the 3rd October 1939.

² Inserted by Notification No. 406-O. R./ 40, dated the 11th April 1940.

cable to secure that the nature and situation thereof are reported, or, if the article is a document, that it is delivered as soon as may be, to some person in His Majesty's service; and

(b) shall not, save as aforesaid, remove or tamper with the article except with the permission of the Central Government.

(2) The Central Government may by notified order direct that the obligations and restrictions imposed by sub-rule (1) shall not apply in relation to any such description of articles as may be specified therein or as may be specified by a prescribed authority or person

(3) If any person contravenes any of the provisions of sub-rule (1), he shall be punishable with imprisonment for a term which may extend to six months and shall also be liable to fine.

116. Power to obtain information.—(1) Without prejudice to any special provisions contained in these Rules, the Central Government or the Provincial Government may by order require any person to furnish or produce to any specified authority or person any such information or article in his possession as may be specified in the order, being information or an article which that Government considers it necessary or expedient in the interests of the defence of British India, the efficient prosecution of the war or the public safety or interest to obtain or examine.

(2) If any person fails to furnish or produce any information or article in compliance with an order made under sub-rule (1), he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

117. False statements.—If any person—

(i) when required by or under any of these rules to make any statement or furnish any information, makes any statement or furnishes any information which he knows or has reasonable cause to believe to be false, or not true, in any material particular, or

(ii) makes any such statement as aforesaid in any account, declaration, estimate, return or other document which he is required by or under any of these Rules to furnish,

he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

117-A¹. Power to require production of books, etc.—(1) Where any person is required by or under any of these Rules to make any statement or furnish any information to any authority, that authority may by order, with a view to verifying the statement made or the information furnished by such person, further require him to produce any books, accounts or other documents relating thereto which may be in his possession or under his control.

(2) If any person fails to produce any books, accounts or other documents in compliance with an order made under sub-rule (1), he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

118. Prohibition against disclosing information.—No person who obtains any information by virtue of these Rules shall, otherwise than in connexion with the execution of the provisions of these Rules or of any order made in pursuance thereof, disclose that information to any other person except with permission granted by or on behalf of Government..

¹ Inserted by Notification No. 532-O.R./40, dated the 21st September 1940.

(2) If any person contravenes the provisions of sub-rule (1), he shall be punishable with imprisonment for a term which may extend to two years and shall also be liable to fine.

119. Publication, affixation and defacement of notices.—(1) Save as otherwise expressly provided in these Rules, every authority, officer or person who makes any order in pursuance of any of these Rules shall publish notice of such order in such manner as may, in the opinion of such authority, officer or person, be best adapted for informing persons whom the order concerns.

(2) Any police officer and any other person acting on behalf of Government may affix to, or cause to be displayed on, any premises, vehicle or vessel, any notice issued by lawful authority for any purpose connected with the administration of these Rules and may for the purpose of exercising the power conferred by this rule enter at any time upon any vehicle or land or board any vessel.

(3) If any person, without lawful authority, removes, alters, defaces, obliterates or in any way tampers with any notice affixed or displayed in pursuance of these Rules, he shall be punishable with imprisonment for a term which may extend to six months and shall also be liable to fine.

120. Obstructing lawful authorities.—If any person voluntarily obstructs, or offers any resistance to, or impedes or otherwise interferes with,—

- (a) any member of His Majesty's forces acting in the course of his duty as such, or
 - (b) any authority, officer, or person exercising any powers, or performing any duties, conferred or imposed upon it or him by or in pursuance of these Rules, or otherwise discharging any lawful functions in connexion with the defence of British India and the efficient prosecution of the war, or
 - (c) any person who is carrying out the orders of any such authority, officer or person as aforesaid or who is otherwise acting in accordance with his duty in pursuance of these Rules,
- he shall be punishable with imprisonment for a term which may extend to two years and shall also be liable to fine.

PART XVIII.

SUPPLEMENTARY AND PROCEDURAL.

121. Attempts, etc., to contravene the Rules.—Any person who attempts to contravene, or abets, or attempts to abet, or does any act preparatory to, a contravention of, any of the provisions of these Rules shall be deemed to have contravened that provision.

122. Offences by corporations.—If the person contravening any of the provisions of these Rules, is a company or other body corporate, every director, manager, secretary or other officer or agent thereof shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.

123. Assisting offenders.—Any person who, knowing or having reasonable cause to believe that any other person has contravened any of the provisions of these Rules, gives that other person any assistance with intent thereby to prevent, hinder or otherwise interfere, with his

arrest, trial or punishment for the said contravention, shall be deemed to have abetted that contravention.

124. Power to issue search-warrants.—(1) If a District Magistrate, Sub-divisional Magistrate, Presidency Magistrate or Magistrate of the first class has reason to believe that a contravention of any of these Rules, or an offence prejudicial to the efficient prosecution of war, to the defence of British India or to the public safety, has been, is being or is about to be committed in any place, he may by warrant authorise any police officer above the rank of constable—

(a) to enter and search the place in the manner specified in the warrant, and

(b) to seize anything found in or on such place which the police officer has reason to believe is being used or is intended to be used for the purposes of, or in connection with, any such contravention or offence as aforesaid; and

the provisions of the Code of Criminal Procedure, 1898, shall so far as they may be applicable, apply to any such search or seizure, as they apply to any search or seizure made under the authority of a warrant issued under section 98 of that Code.

(2) Any Magistrate before whom anything seized under sub-rule (1) is conveyed shall forthwith report the fact of such seizure to the Provincial Government and, pending the receipt of its orders, may detain in custody anything so seized or take such other order for its safe custody as he may think proper.

(3) Anything seized under sub-rule (1) shall be disposed of in such manner as the Provincial Government may direct.

125. Power to search vessels in tidal or territorial waters.—(1) Any officer of His Majesty's forces engaged in the defence of the coast or any person authorised in this behalf by such officer may stop and search any vessel found within tidal waters or the territorial waters adjacent to British India and seize anything in such vessel which he has reason to believe has been, is being, or is about to be, used for any purpose prejudicial to the defence of British India or to the efficient prosecution of war.

(2) Any officer or person who makes or causes to be made any seizure in pursuance of the provisions of sub-rule (1) shall forthwith report the fact of such seizure to the Central Government, and pending the receipt of the orders of the Central Government, may detain in custody anything so seized or take such other order for its safe custody as he may think proper.

(3) Anything seized in pursuance of the provisions of sub-rule (1) shall be disposed of in such manner as the Central Government may direct.

(4) Nothing in this rule shall apply to any visit, search, detention or capture made in the exercise of any right under international law, or affect any law relating to Prize or Prize Courts.

126. Further powers of search.—(1) The Central Government or the Provincial Government may by general or special order empower any person to—

(a) stop and search any vessel found in inland waterways;

(b) search any place, and seize anything, which he has reason to believe has been, is being or is about to be, used for any

purpose prejudicial to the defence of British India or to the public safety or interest.

(2) Any person empowered under sub-rule (1) shall forthwith report to the Provincial Government in detail any seizure made by him and, pending the receipt of its orders, may detain in custody anything so seized or take such other order for its safe custody as he may think proper.

(3) Anything seized by a person empowered under sub-rule (1) shall be disposed of in such manner as the Provincial Government may direct.

(4) A person empowered by the Central Government or the Provincial Government under sub-rule (1) may authorise any other person to exercise like powers to his own in the whole or any part of the area in respect of which that Government has empowered him.

127. Entry and inspection of land.—Any member of His Majesty's forces acting in the course of his duty as such, and any person authorised by the Central Government to act under this rule,—

(a) may enter on any land for the purpose of exercising any of the powers conferred in relation to that land by any of these Rules;

(b) may enter and inspect any land for the purpose of determining whether, and, if so, in what manner, any of those powers are to be exercised in relation to that land ;

(c) may, for any purpose connected with the defence of British India, the public safety, the efficient prosecution of war, or the maintenance of supplies and services essential to the life of the community, pass (with or without animals or vehicles) over any land.

128. General power to arrest without warrant.—Any police officer may arrest without warrant any person who is reasonably suspected of having committed, of committing or of being about to commit a contravention of any of rules 12, 27, 49, 52, 53, 57, 119 and 120.

129. Further powers of arrest and detention.—(1) Any police officer not below the rank of a head constable, or any other officer of Government empowered in this behalf by general or special order of the Central Government, may arrest without warrant any person whom he reasonably suspects of having acted, of acting, or of being about to act—

(a) with intent to assist any State at war with His Majesty, or in a manner prejudicial to the public safety or to the efficient prosecution of war ;

(b) in any area in which the Provincial Government, has, by notification, declared that this clause shall become operative, in a manner calculated to promote, or to assist the promotion of, rebellion against the authority of Government ;

(c) in any prohibited place, protected place, protected area or any such place or area as is referred to in clause (c) of sub-rule (1) of rule 9 in a manner prejudicial—

(i) to the safety of any such place or area or of any industry, machinery or building in any such place or area ;

(ii) to the output or effective control of any such industry or machinery.

(2) Any officer who makes an arrest in pursuance of sub-rule (1) shall forthwith report the fact of such arrest to the Provincial Government, and, pending the receipt of the orders of the Provincial Government, may, subject to the provisions of sub-rule (3), by order in writing commit any

person so arrested to such custody as the Provincial Government may by general or special order specify :

Provided—

(i) that no person shall be detained in custody under this sub-rule for a period exceeding fifteen days without the order of the Provincial Government; and

(ii) that no person shall be detained in custody under this sub-rule for a period exceeding two months.

(3) If any person arrested under clause (a) of sub-rule (1) is prepared to furnish security, the officer who has arrested him may, instead of committing him to custody, release him on his executing a bond with or without sureties that he will not, pending the receipt of the orders of the Provincial Government, enter, reside or remain in the areas in respect of which he became liable to arrest.

(4) On receipt of any report made under the provisions of sub-rule (2), the Provincial Government may, in addition to making such order, subject to the second proviso to sub-rule (2), as may appear to be necessary for the temporary custody of any person arrested under this rule, make, in exercise of any power conferred upon it by any law for the time being in force, such final order as to his detention, release, residence or any other matter concerning him as may appear to the said Government in the circumstances of the case to be reasonable or necessary.

(5) Subject to the condition that nothing in this sub-rule shall be deemed to extend the limits of detention prescribed in the first and second provisos to sub-rule (2), the Provincial Government may direct that any person arrested under clause (a) or clause (b) of sub-rule (1) shall be removed to any other province of which the Provincial Government (hereinafter described as the second Government) has given its consent, in this behalf, and thereupon such person shall be removed and the second Government shall take in respect of such person such action as may be lawful in like manner as if such person had been arrested within its province.

(6) When security has been taken in pursuance of the provisions of sub-rule (3), the bond shall be deemed to be a bond taken under the Code of Criminal Procedure, 1898, by the Chief Presidency Magistrate or District Magistrate having jurisdiction in the area in respect of which the said security has been taken and the provisions of section 514 of the said Code shall apply accordingly.

130. Cognizance of contraventions of the Rules, etc.—(1) No Court or Tribunal shall take cognizance of any alleged contravention of these Rules, except on a report in writing of the facts constituting such contravention, made by a public servant.

(2) Proceedings in respect of a contravention of the provisions of these Rules alleged to have been committed by any person may be taken before the appropriate Court having jurisdiction in the place where that person is for the time being.

(3) Notwithstanding anything contained in Schedule II to the Code of Criminal Procedure, 1898, a contravention of rule 35 shall be triable by a Court of Session, a Presidency Magistrate or a Magistrate of the first class.

131. Special sanction for certain prosecutions.—No proceedings for a contravention of clause (c) of sub-rule (1) of rule 31 in respect of

a prejudicial report the publication of which is, or which is an incitement to the commission of, a prejudicial act of the nature described in clause (k) of sub-rule (6) of rule 34 shall be taken in respect of any document circulated by, or under the authority of, a candidate for election to a Chamber of the Central or of a Provincial Legislature, save with the written sanction of the Central Government, or of the Provincial Government, as the case may be.

132. Power to give effect to rules, orders, etc.—(1) Any authority, officer or person who is empowered by or in pursuance of [the Defence of India Act, 1939, or]¹ any of these Rules to make any order, or to exercise any other power, may, in addition to any other action prescribed by or under these Rules, take, or cause to be taken, such steps and use, or cause to be used, such force as may, in the opinion of such authority, officer or person, be reasonably necessary for securing compliance with, or for preventing or rectifying any contravention of, such order, or for the effective exercise of such power.

(2) Where in respect of any of the provisions of these Rules there is no authority, officer or person empowered to take action under sub-rule (1), the Central or the Provincial Government may take, or cause to be taken, such steps and use, or cause to be used, such force as may in the opinion of that Government be reasonably necessary for securing compliance with, or preventing or rectifying any breach of, such provision.

(3) For the avoidance of doubt it is hereby declared that the power to take steps under sub-rule (1) or under sub-rule (2) includes the power to enter upon any land or other property whatsoever.

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DEFENCE CO-ORDINATION DEPARTMENT.

New Delhi, the 21st January, 1941.

No. 662-O.R./41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendments shall be made in the Defence of India Rules, namely:—

In clause (b) of sub-rule (2) of rule 81 of the said Rules, after the word "prices", the words "or rates" and after the word "sold" the words "or hired" shall be inserted.

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DEFENCE CO-ORDINATION DEPARTMENT.

New Delhi, the 25th January, 1941.

No. 665 OR/41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

To sub rule (4) of rule 84 of the said Rules, the following shall be added, namely:—

"except that section 183 thereof shall have effect as if for the word 'shall' in that section the word 'may' were substituted."

¹ Inserted by Notification No. 285-O. R./39, dated the 24th November 1939.

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DEFENCE CO-ORDINATION DEPARTMENT.

New Delhi, the 1st February 1941.

No. 484-OR./40.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely :—

For rule 69 of the said Rules, the following rule shall be substituted, namely :—

"69. *Stopping of vessels*.—(1) The Central Government, if it appears to it to be necessary or expedient so to do in the interests of the defence of British India, the public safety or the efficient prosecution of war, or for maintaining supplies and services essential to the life of the community, may by order direct—

(a) as regards any class of vessels in British India, that no vessel of that class shall leave any port or place in British India at which it may be, or

(b) as regards any particular vessel at any port or place in British India, that that vessel shall not leave that port or place, except with permission granted by such authority as may be specified in the order.

(2) If any vessel leaves or attempts to leave any port or place in contravention of an order made under sub-rule (1), the master of the vessel shall be punishable with imprisonment for a term which may extend to five years, and shall also be liable to fine."

No. 657-OR./41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendments shall be made in the Defence of India Rules, namely :—

In sub-rule (1) of rule 49 of the said Rules, after the words "Central Government", the words "or the Provincial Government" and after the words "involved in", the words "or resulting from" shall be inserted

No. 677-OR./41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendments shall be made in the Defence of India Rules, namely :—

In sub-rule (1) of rule 119 of the said Rules,—

(1) for the words "shall publish", the words "shall, in the case of an order of a general nature or effecting a class of persons, publish", shall be substituted ;

(2) after the words "the order concerns", the words "and in the case of an order affecting an individual person serve or cause the order to be served on that person in such manner as such authority, officer or person thinks fit" shall be inserted.

Published in the "*Gazette of India*"; Part I, dated the 8th February 1941.
DEFENCE CO-ORDINATION DEPARTMENT.

New Delhi, the 8th February 1941.

No. 631-OR./40.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely :

In sub-rule (1) of rule 70 of the said Rules, after the words and figures "under the Indian Aircraft Act, 1934," the words "wherever such aircraft may be," shall be inserted.

Published in the "*Gazette of India*," Part I, dated the 15th February 1941.
DEFENCE CO-ORDINATION DEPARTMENT.

New Delhi, the 15th February 1941.

No. 305-OR./39.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendments shall be made in the Defence of India Rules, namely :—

In the said Rules—

(1) for sub-rule (1) of rule 9, the following sub-rule shall be substituted, namely :—

"(1) Without prejudice to the provisions of any other rule, the Central Government, as respects any prohibited place, and the Central Government or the Provincial Government, as respects—

(a) any place or area declared by it to be a protected place or protected area, or

(b) any other place or area in relation to which it appears to it to be necessary to take special precautions in the interests of the defence of British India, the public safety, the maintenance of public order, the efficient prosecution of war, or the maintenance of supplies and services essential to the life of the community,

may make orders for controlling or regulating the admission of persons to, and the conduct of persons in, and in the vicinity of, such place or area."

(2) after sub-rule (2) of rule 9, the following sub-rules shall be inserted, namely :

"(2a) An order made under this rule in respect of a prohibited place, protected place or protected area may exempt such place or area from all or any of the provisions of these rules which are expressed to apply to or in relation to a prohibited place, protected place or protected area as the case may be or may direct that all or any of the said provisions shall apply subject to such modifications as may be specified in the order.

(2b) An order made under this rule in respect of a place or area which is not a prohibited place, protected place or protected area may direct that all or any of the provisions of these rules which are expressed to apply to or in relation to a prohibited place, protected place or protected area as the case may be shall apply to or in relation to the place or area in respect of which the order is made either without modification or subject to such modifications as may be specified in the order."

(3) In clause (c) of sub-rule (1) of rule 129, for the words, brackets, letter and figures "protected place, protected area or any such place or area as is referred to in clause (c) of sub-rule (1) of rule 9", the following shall be substituted, namely :—

"protected place or protected area, or any other place or area as respects which an order has been made under rule 9."

No. 542 OR./40.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely :—

After rule 130 of the said Rules, the following rule shall be inserted, namely :—

"130-A. *Special provision regarding bail*—Notwithstanding anything contained in the Code of Criminal Procedure, 1898, no person accused or convicted of a contravention of these Rules shall, if in custody, be released on bail or on his own bond, unless—

(a) the prosecution having been given an opportunity to show cause against such release fails to show reasonable cause; and

(b) where the contravention is of any such provision of these Rules as the Central Government may by notified order specify in this behalf, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such contravention."

No. 701-OR./41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendments shall be made in the Defence of India Rules, namely:—

In sub-rule (5) of rule 6, sub-rule (4) of rule 8, sub-rule (3) of rule 9, sub-rule (4) of rule 10, sub-rule (2) of rule 11, sub-rule (2) of rule 12, sub-rule (3) of rule 13, sub-rule (4) of rule 14, sub-rule (2) of rule 15, sub-rule (5) of rule 16, sub-rule (2) of rule 17, sub-rule (5) of rule 19, sub-rule (3) of rule 20, sub-rule (2) of rule 21, sub-rule (8) of rule 22, sub-rule (2) of rule 23, sub-rule (2) of rule 24, sub-rule (4) of rule 25, sub-rule (6) of rule 26, sub-rule (2) of rule 27, sub-rule (4) of rule 28, sub-rule (4) of rule 29, sub-rule (5) of rule 31, sub-rule (2) of rule 32, sub-rule (5) of rule 33, sub-rule (4) of rule 35, sub-rule (2) of rule 36, sub-rule (3) of rule 37, sub-rule (5) of rule 38, sub-rule (6) of rule 39, sub-rule (4) of rule 40, sub-rule (3) of rule 41, sub-rule (7) of rule 42, the proviso to rule 43, sub-rule (5) of rule 45, sub-rule (3) of rule 46, sub-rule (3) of rule 47, sub-rule (4) of rule 48, sub-rule (4) of rule 49, sub-rule (4) of rule 51, sub-rule (5) of rule 52, sub-rule (2) of rule 53, sub-rule (4) of rule 54, sub-rule (3) of rule 55, sub-rule (4) of rule 56, sub-rule (4) of rule 57, sub-rule (2) of rule 58, sub-rule (3) of rule 59, sub-rule (2) of rule 60, sub-rule (2) of rule 60A, sub-rule (3) of rule 61, sub-rule (3) of rule 62, sub-rule (3) of rule 63, sub-rule (2) of rule 64, sub-rule (5) of rule 65, sub-rule (3) of rule 66, sub-rule (3) of rule 67, sub-rule (6) of rule 68, sub-rule (2) of rule 69, sub-rule (2) of rule 70, sub-rule (4) of rule 72, sub-rule (6) of rule 73, sub-rule (2) of rule 74, sub-rule (3) of rule 75, sub-rule (3) of rule 76, sub-rule (3) of rule 76A, sub-rule (5) of rule 78, sub-rule (4) of rule 79, sub-rule (2) of rule 80, sub-rule (4) of rule 81, sub-rule (4) of rule 82, sub-rule (4) of rule 83, sub-rule (2) of rule 85, sub-rule (3) of rule 85B, sub-rule (2) of rule 86, sub-rule (3) of rule 89, sub-rule (3) of rule 90, sub-rule (2) of rule 90A, sub-rule (7) of rule 90B, sub-rule (5) of rule 91, sub-rule (3) of rule 92, sub-rule (4) of rule 93, sub-rule (7) of rule 94, sub-rule (3) of rule 98, rule 101A, rule 102, sub-rule (4) of rule 104, rule 108, rule 109, sub-rule (3) of rule 112, sub-rule (2) of rule 113, sub-rules (4) and (5) of rule 114, sub-rule (3) of rule 115, sub-rule (2) of rule 116, rule 117, sub-rule (2) of rule 117A, sub-rule (2) of rule 118, sub-rule (3) of rule 119 and rule 120 of the said Rules, for the words "and shall also be liable to fine" the words "or with fine or with both" shall be substituted.

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DEFENCE CO-ORDINATION DEPARTMENT.

New Delhi, the 15th February 1941.

No. 713-OR./41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

After rule 51 of the said Rules, the following rules shall be inserted, namely:—

"51A. *Watching of premises to detect fire.*—(1) The Central Government or the Provincial Government may by general or special order make

provision for requiring that persons shall always be present, or shall be present at such times as may be specified in the order, on premises to which the order applies, and shall perform such duties and have such powers in connexion with the detection and extinction of outbreaks of fire as may be specified in the order.

(2) Any police officer, or any other person authorised in this behalf by the Central Government or the Provincial Government, may at any time enter and inspect any premises to which any order made under sub-rule (1) applies for the purpose of seeing whether the order is being complied with.

(3) If any person contravenes any of the provisions of an order made under this rule, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

51-B. *Measures for dealing with outbreaks of fire.*—With a view to preventing the spread, or facilitating the extinction, of fire caused by incendiary bombs, the Central Government or the Provincial Government may by order make provision for requiring rooms or other spaces on premises to which the order applies to be cleared and kept clear of articles which are not affixed to the premises.

(2) Any police officer, or any person authorised in this behalf by the Central Government or the Provincial Government, may at any time enter and inspect any premises to which an order made under sub-rule (1) applies for the purpose of seeing whether the order has been complied with; and if that officer or person finds that the order has not been complied with, he may, without prejudice to any other proceedings which may be taken in respect of the contravention of the order, take such steps and use such force as may appear to him to be reasonably necessary for giving effect to the order.

(3) In the event of any outbreak of fire, any person authorised in this behalf by the Central Government or the Provincial Government, may take or cause to be taken such steps and give such directions as appear to him to be necessary for preventing the spread of fire; and the steps which may be so taken include entering upon any land or other property whatsoever and the destruction or removal of anything in, on or over any land or property.

(4) If any person contravenes any of the provisions of an order made under this rule, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

51C. *Protection of factories and mines.*—(1) The Central Government may by order require the owner, manager or agent of any mine, or the occupier or manager of any factory—

(a) to make, within such period as may be specified in the order, a report in writing stating the measures which he has taken or is taking or proposing to take to secure the due functioning of the mine or factory, and the safety of persons and property therein and in the vicinity thereof, in the event of hostile attack;

(b) to take, within such period as may be specified in the order, such measures as may be so specified, being measures the taking of which is in the opinion of the Central Government necessary for the purposes aforesaid.

(2) The Central Government may by order require any person or class of persons employed in or in connexion with, or resident within three miles of, any mine or factory, or class of mines or factories, or any local authority within whose jurisdiction any mine or factory is situated, to take, within such period as may be specified in the order, such measures as may be so specified, being measures the taking of which is in the opinion of the Central Government necessary to secure the due functioning of such mine or factory, or

class of mines or factories, and the safety of persons or property therein or in the vicinity thereof, in the event of hostile attack.

(3) Any person authorised in this behalf by the Central Government may at any time—

(a) enter and inspect any factory or mine for the purpose of ascertaining what measures have been, or ought to be, taken to secure the due functioning of the mine or factory, and the safety of persons and property therein and in the vicinity thereof, in the event of hostile attack, or

(b) enter and inspect any premises belonging to or occupied by any person or authority to whom an order made under sub-rule (1) or sub-rule (2) relates for the purpose of seeing whether the order has been complied with.

(4) If in the opinion of the Central Government any person or authority who has been ordered under sub-rule (1) or sub-rule (2) to take any measures has failed to take, or is unlikely to complete, the measures within the period specified in the order, then, without prejudice to any other proceedings which may be taken in respect of the contravention of the order, the Central Government may cause the said measures to be taken or completed and the cost thereof shall be recoverable from such person or authority by the Collector as if it were an arrear of land revenue.

(5) If any person contravenes any of the provision of an order made under this rule, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both."

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DEFENCE CO-ORDINATION DEPARTMENT.

New Delhi, the 19th February 1941.

No. 713-OR/41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

In sub-rule (4) of rule 51C of the said Rules, the words "from such person or authority" shall be omitted, and after the words "arrear of land revenue", the following shall be added, namely:—

"from such person or authority, or where such person is the manager or agent of a mine or the manager of a factory, from the owner of the mine or, as the case may be, the occupier of the factory."

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DEFENCE CO-ORDINATION DEPARTMENT.

New Delhi, the 1st March 1941.

No. 591-O. R./40.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendments shall be made in the Defence of India Rules, namely:—

In rule 90-B of the said Rules,

(1) in the heading, after the word "money" the words "and gold" shall be inserted.

(2) in sub-rule (1),

(a) after the word "coin" the brackets and words "(other than a gold coin)" shall be inserted;

(b) after the words "bills of exchange" the following shall be inserted, namely :

" ; and "gold" means gold in the form of coin, whether legal tender or not, or bullion or ingot, whether refined or not. "

(3) to sub-rule (2) the words "or gold" shall be added.

(4) in sub-rule (3), after the word "money" wherever it occurs, the words "and gold" shall be inserted.

(5) in sub-rules (4), (5) and (6), after the word "money" wherever it occurs, the words "or gold" shall be inserted.

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DEFENCE CO-ORDINATION DEPARTMENT.

New Delhi, the 8th March 1941.

No. 734-OR/41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendments shall be made in the Defence of India Rules, namely :—

1. In rule 81 of the said Rules—

(a) for clause (c) of sub-rule (2) the following clause shall be substituted, namely :—

"(a) for regulating the carrying on of any undertaking engaged in, or capable of doing, work appearing to the Central Government essential to any of the above mentioned purposes, and, in particular—

(i) for requiring work to be done by an undertaking ;

(ii) for determining the order of priority in which, and the period or periods within which work shall be done by an undertaking ;

(iii) for controlling or fixing the charges which may be made by the undertakers in respect of the doing of any work by them ; and

(iv) for requiring, regulating or prohibiting the engagement in the undertaking of any workman or any class or classes for workmen ;

(b) in clause (d) of sub-rule (2) after the words "relating to the undertaking" the words " , and to employ such accounting and auditing staff," shall be inserted.

2. In sub-rule (1) of rule 96 of the said Rules, for the figures "81" the figures and brackets "81 (3)" shall be substituted.

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DEFENCE CO-ORDINATION DEPARTMENT.

New Delhi, the 15th March 1941.

No. 621-OR/40.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely :—

In rule 128 of the said Rules, after the figures "49" the figures "51" shall be inserted.

No. 699-OR/41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendments shall be made in the Defence of India Rules, namely :—

In rule 78 of the said Rules,—

(1) in sub-rule (1), after the words "rendered useless", the following words shall be inserted, namely :—

"the clearing of any site on which substantial damage has occurred by reason of war operations";

(2) in sub-rule (2) after the words "Central Government," the words "or the Provincial Government" shall be inserted;

(3) in sub-rule (3), after the words "of the Central Government", the words "or the Provincial Government" shall be inserted, and for the words "the Central Government may," the words "that Government may" shall be substituted;

(4) in sub-rule (4), after the words "Central Government," the words "or the Provincial Government, as the case may be" shall be inserted;

(5) after sub-rule (4) the following sub-rule shall be inserted, namely:—

"(4A) Anything removed from any land in pursuance of this rule may be sorted, stored and, in so far as it appears to be valueless, disposed of in such manner as may be directed by any person authorised in that behalf by the Central Government or the Provincial Government, as the case may be."

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DEFENCE CO-ORDINATION DEPARTMENT.

New Delhi, the 22nd March 1941.

No. 744-OR./41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

To clause (d) of sub-rule (1) of rule 26 of the said Rules, the following shall be added, namely:—

"if he is not already there to proceed to that place or area within such time as may be specified in the order."

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DEFENCE CO-ORDINATION DEPARTMENT.

New Delhi, the 5th April, 1941.

No. 694-OR./41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

In sub-rule (1) of rule 81 of the said Rules, after the words "In this rule" the following shall be inserted, namely:—

"any reference to articles shall be construed as including a reference to electrical energy, and".

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DEFENCE CO-ORDINATION DEPARTMENT.

New Delhi, the 5th April, 1941.

No. 375-OR./40—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

In sub-rule (2) of rule 22 of the said Rules, for the words "no document, pictorial representation, photograph or other article whatsoever recording information", the words "no article whatsoever recording information and no document, pictorial representation, photograph or gramophone record" shall be substituted.

No. 765-Q.R./41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

In sub-rule (1) of rule 111 of the said Rules, for the words "made to, or by, an enemy firm, whether before or after the commencement of the Ordinance", the following shall be substituted, namely:—

"made, whether before or after the commencement of the Ordinance, to or by a person or body of persons who at the time of such transfer was, or subsequent to such transfer became, an enemy as defined in rule 97 or an enemy subject or an enemy firm."

Published in the "*Gazette of India*", Part I, dated the 12th April 1941.

DEFENCE CO-ORDINATION DEPARTMENT.

New Delhi, the 12th April, 1941.

No. 409-OR/40.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendments shall be made in the Defence of India Rules, namely:—

In rule 89 of the said Rules,—

(1) in the heading, for the words "road transport" the words "road and water transport" shall be substituted:

(2) to sub-rule (1), the following clause shall be added, namely:—

"(c) 'water transport' means transport on inland waterways."

(3) in sub-rule (2)—

(a) in clause (d), after the words "person owning," the words "or employed in connexion with," shall be inserted;

(b) after clause (f) the following clause shall be inserted, namely:—

"(ff) provide for prohibiting any person or class of persons from travelling by any vehicle or class of vehicles."

(c) in clause (i), for the words "the regulation of traffic on highways", the following shall be substituted, namely:—

"securing the defence of British India, the public safety, the maintenance of public order or the efficient prosecution of the war, or for maintaining supplies and services essential to the life of the community."

(4) after sub-rule (2), the following sub-rule shall be inserted, namely:—

"(2A) The provisions of sub-rule (2) shall also apply in relation to water transport and vessels used or capable of being used for the purpose of water transport as they apply in relation to road transport and vehicles."

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DEFENCE CO-ORDINATION DEPARTMENT.

New Delhi, the 19th April, 1941.

No. 496-OR/40.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

• Sub-rule (3) of rule 88 of the said Rules shall be omitted.

No. 770-OR/41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

In sub-rule (2) of rule 51 of the said Rules, after the word "property" the words and brackets "(notwithstanding that such premises or property would not otherwise be open to the public)" shall be inserted.

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DEFENCE CO-ORDINATION DEPARTMENT.

New Delhi, the 26th April, 1941.

No. 791-OR/41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendments shall be made in the Defence of India Rules, namely:—

In Rule 79 of the said Rules,—

(a) in sub-rule (1),—

(i) for the words "in the opinion of the Central Government" the words "in the opinion of the Central Government or the Provincial Government" shall be substituted;

(ii) for the words "the Central Government may", the words "that Government may" shall be substituted;

(iii) for the words "as appear to the Central Government", the words "as appear to it" shall be substituted;

(b) in sub-rule (2),—

(i) for the words "by the Central Government", the words "by the Central Government or the Provincial Government" shall be substituted;

(ii) for the words "the Central Government may", the words "that Government may" shall be substituted;

(c) in sub-rule 3,—

(i) for the words "The Central Government may", the words "The Central Government or the Provincial Government may" shall be substituted;

(ii) in clause (b), for the words "without the permission of the Central Government", the words "without the permission of the Central Government, or the Provincial Government, as the case may be," shall be substituted.

No. 793-OR/41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

In clause (bb) of sub-rule (2) of rule 81 of the said Rules, after the words "any urban area" the words and brackets "(including a cantonment)" shall be inserted.

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DEFENCE CO-ORDINATION DEPARTMENT.

New Delhi, the 3rd May, 1941.

No. 795-OR/41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendments shall be made in the Defence of India Rules, namely:—

In the said Rules—

I. After clause (e) of rule 97, the following clause shall be inserted, namely:—

"(f) as respects any business carried on in enemy territory, any individual or body of persons (whether corporate or incorporate) carrying on that business, or"

II. After sub-rule (3) of rule 98, the following sub-rule shall be inserted, namely:—

"(4) In any proceedings for an offence of trading with the enemy, the fact that any document has been despatched addressed to a person in enemy territory shall, unless the contrary is proved, be evidence, as against any person who was a party to the despatch of the document, that the person to whom the document was despatched was an enemy."

No. 796-OR/41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939) the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

After rule 51C of the said Rules the following rule shall be inserted, namely:—

"51D. *Security of building.*—(1) The Central Government or the Provincial Government may by order impose in relation to any buildings or class of buildings such requirements as to layout materials and construction as that Government may consider necessary for the purpose of rendering the buildings less vulnerable to air raids or of affording better protection to persons using or resorting to them."

(2) An order made under sub-rule (1) shall apply only to buildings in such area as may be specified in the order, and which are erected, extended or structurally altered after the coming into operation of the order.

(3) If any person contravenes the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both."

No. 797-OR/41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

For rule 114A of the said Rules, the following rule shall be substituted, namely:—

"114A. *Power to control and wind up certain businesses.*—(1) In this rule "enemy" means any person or body of persons who is for the time being an enemy as defined in rule 97."

(2) Where any business is being carried on in British India by, or on behalf of, or under the direction of, persons all or any of whom are enemies or enemy subjects or appear to the Central Government to be associated with enemies, the Central Government may, if it thinks it expedient so to do, make—

(a) an order (hereafter in this rule referred to as a "restriction order") prohibiting the carrying on the business either absolutely or except for such purposes and subject to such conditions as may be specified in the order, or

(b) an order (hereafter in this rule referred to as a "winding up order") requiring the business to be wound up;

and the making of a restriction order as respects any business shall not prejudice the power of the Central Government, if it thinks it expedient so to do, at any subsequent date to make a winding up order as respects that business."

(3) Where an order under sub-rule (2) is made as respects any business, the Central Government may, by that or a subsequent order, appoint a Supervisor to control and supervise the carrying out of the order, and, in the case of a winding up order, to conduct the winding up of the business and may confer on the Supervisor any such powers in relation to the business as are exercisable by a liquidator in the voluntary winding up of a company in relation to the company (including power in the name of the person carrying on the business or in his own name and by deed or otherwise, to convey or

transfer any property, and power to apply to the court to determine any question arising in the carrying out of the order), and may by the order confer on the Supervisor such other powers as the Central Government thinks necessary or convenient for the purpose of giving full effect to the order.

(4) Where a restriction order or a winding up order is made as respects any business, the distribution of any assets of the business which are distributed while the order is in force shall be subject to the same rules as to preferential payments as are applicable to the distribution of the assets of a company which is being wound up, and the said assets of the business shall, so far as they are available for discharging unsecured debts, be applied in discharging unsecured debts due to creditors of the business who are not enemies in priority to unsecured debts due to any other creditors, and any balance, after providing for the discharge of all liabilities of the business, shall be distributed among the persons interested in the business in such manner as the Central Government may direct:

Provided that the provisions of this sub-rule shall, in their application to the distribution of any money or other property which would, in accordance with those provisions, fall to be paid or transferred to an enemy, whether as a creditor or otherwise, have effect subject to the provisions of rule 114 and of any order made under that rule.

(5) Where any business for which a Supervisor has been appointed under this rule has assets in enemy territory, the Supervisor shall, if in his opinion it is practicable so to do, cause an estimate to be prepared—

(a) of the value of those assets;

(b) of the amount of any liabilities of the business to creditors, whether secured or unsecured, who are enemies;

(c) of the amount of the claims of persons who are enemies to participate, otherwise than as creditors of the business, in any distribution of assets of the business made while an order under sub-rule (2) is in force as respects the business and, where such an estimate is made, the said liabilities and claims shall, for the purposes of this rule, be deemed to have been satisfied out of the said assets of the business in enemy territory, or to have been satisfied there-out so far as those assets will go, and only the balance (if any) shall rank for satisfaction out of the other assets of the business.

(6) Where an estimate has been prepared under sub-rule (5), a certificate of the Supervisor as to the value or amount of any assets, claims or liabilities to which the estimate relates shall be conclusive for the purpose of determining the amount of the assets of the business available for discharging the other liabilities of the business and for distribution amongst other persons claiming to be interested in the business:

Provided that nothing in this sub-rule shall affect the rights of creditors of, and other persons interested in, the business against the assets of the business in enemy territory.

(7) The Central Government may, on an application made by a Supervisor appointed under this rule, after considering the application and any objections which may be made by any person who appears to the Central Government to be interested, by order grant the Supervisor a release, and an order of the Central Government under this sub-rule shall discharge the Supervisor from all liability in respect of any act done or default made by him in the exercise and performance of his powers and duties as Supervisor, but any such order may be revoked by the Central Government on proof that it was obtained by fraud or by suppression or concealment of any material fact.

(8) Where an order under sub-rule (2) has been made as respects a business carried on by any individuals or by a company, no insolvency petition against the individuals, or petition for the winding up of the company, shall

be presented, or resolution for the winding up of the company passed, or steps for the enforcement of the rights of any creditors of the individuals or company taken; without the consent of the Central Government, but where the business is carried on by a company, the Central Government may present a petition for the winding up of the company by the court, and the making of an order under sub-rule (2) shall be a ground on which the company may be wound up by the court.

(9) Where an order is made under this rule appointing a Supervisor, for any business, any remuneration of, and any costs, charges and expenses incurred by, the Supervisor, and any other costs, charges and expenses incurred in connection with the control and supervision of the carrying out of the order, shall, to such amount as may be certified by the Central Government, be defrayed out of the assets of the business, and as from the date of the certificate, be charged on those assets in priority to any other charges thereon.

(10) If any person contravenes the provisions of any order made under sub-rule (2), he shall be punishable with imprisonment for a term which may extend to five years or with fine or both."

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DEFENCE CO-ORDINATION DEPARTMENT.

Simla, the 10th May, 1941.

No 753-O.R./41.—In exercise of the powers conferred by section 2 of **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendments shall be made in the Defence of India Rules, namely:—

In the said Rules—

(1) in clause (b) of sub-rule (1) of rule 124, for the words "is being used or is intended to be used" the words "has been, is being or is intended to be used" shall be substituted;

(2) after sub-rule (3) of rule 124, the following sub-rule shall be added, namely:—

"(4) In this rule, and in rule 126, "place" includes a house, building, tent, vehicle and aircraft.

(3) in sub-rule (1) of rule 126,

(a) to clause (a) the following words, brackets, letter and figures shall be added, namely:—

"or any vehicle as defined in clause (a) of sub-rule (1) of rule 89"; and

(b) in clause (b), after the word "prejudicial", the words "to the efficient prosecution of war", shall be inserted.

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DEFENCE CO-ORDINATION DEPARTMENT.

Simla, the 17th May, 1941.

No. 765-OR/41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

In rule 110 of the said Rules, for the words "entered into with an enemy firm, whether before or after the commencement of the Ordinance", the following shall be substituted, namely:—

"entered into, whether before or after the commencement of the Ordinance, with a person or body of persons who at the time of such contract was, or subsequent to such contract became, an enemy as defined in rule 97 or an enemy subject or an enemy firm".

Published in the "*Gazette of India*", Part I, dated the 31st May, 1941.
DEFENCE CO-ORDINATION DEPARTMENT.

Simla, the 31st May 1941.

No. 838-O. R/41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

In rule 114 of the said Rules, after sub-rule (3A), the following sub-rule shall be inserted, namely:—

"(3B) Where in pursuance of an order made under sub-rule (1) the assets of a company are vested in the custodian, no proceedings, civil or criminal, shall be instituted under the Indian Companies Act, 1913, against the company or any director, manager or other officer thereof except with the consent in writing of the custodian."

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HOME DEPARTMENT.

Simla, the 6th June, 1941.

No. 74/1/41.—In exercise of the powers conferred by sub-rule (1) of Rule 54 of the **Defence of India Rules** the Central Government is pleased to prohibit the carrying of belchas in public places by members of the association commonly known as the Anjuman-i-Khaksarap.

Published in the "*Gazette of India*", Part I, dated the 7th June 1941.
DEFENCE CO-ORDINATION DEPARTMENT.

Simla, the 7th June 1941.

No. 542-O. R./40.—In exercise of the power conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

for clause (a) of rule 130 of the said Rules, the following shall be substituted, namely:—

"(a) the prosecution has been given an opportunity to oppose the application for such release; and"

No. 817-O. R./41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

To sub-rule (1) of rule 88A of the said Rules, the words "or which is engaged in any such work as may be specified by the Central Government" shall be added.

No. 845-O. R/41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

In rule 114 of the said Rules—

(a) in sub-rule (1) the words and figures "or a person who is an enemy as defined in rule 97" in both places where they occur, shall be omitted;

(b) to sub-rule (3A) the following shall be added, namely:—

"and every reference to an enemy firm shall be construed as including a reference to a person who is an enemy as defined in rule 97."

No. 847-O. R/41.—In exercise of the powers conferred by sub-section (4) of section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the

Central Government is pleased to direct that the powers conferred upon it by rule 83 of the Defence of India Rules shall, in respect of building materials, be exercisable also by the Government of the United Provinces.

- Published in the "*Gazette of India*", Part I, dated the 14th June, 1941.

DEFENCE CO-ORDINATION DEPARTMENT.

Simla, the 14th June 1941.

No. 856-O R/41.—In exercise of the powers conferred by section 2 of the **Defence of India Act 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

For sub-rule (1) of rule 51B of the said Rules, the following sub-rule shall be substituted, namely:—

- "(1) With a view to preventing the spread, or facilitating the extinction, of fire caused by hostile attack from the air, the Central Government or the Provincial Government may by order make provision for requiring the owners or occupiers of the premises to which the order applies to take such measures as may be specified in the order."

No. 860-O. R./41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

For sub-rules (3), (4), (5), (6) and (7) of rule 90B of the said Rules, the following sub-rule shall be substituted, namely:—

- "(3) The restrictions imposed by sub-rule (2) on the export of money or gold shall be deemed to have been imposed under section 19 of the Sea Customs Act, 1878, and all the provisions of that Act shall have effect accordingly:

Provided that where in respect of any contravention of this rule the Customs-collector is of opinion that the penalties provided by the said Act are inadequate, he may make a complaint to a magistrate having jurisdiction; and the accused person shall, upon conviction, be punishable with imprisonment for a term which may extend to five years or with fine or with both, and the money or gold in respect of which the offence has been committed shall be confiscated to the Central Government and delivered to the Customs-collector for disposal."

No. 709-O R/41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

For sub-rule (3) of rule 81 of the said Rules, the following sub-rule shall be substituted, namely:—

- "(3) If it appears to the Central Government that in the interests of the defence of British India or the efficient prosecution of the war, or for maintaining supplies and services essential to the life of the community, it is necessary to exercise control over the whole or any part of an existing undertaking, the Central Government may by order authorise any person (hereinafter referred to as an "authorised controller") to exercise, with respect to the undertaking or any part thereof specified in the order, such functions of control as may be provided by the order; and so long as an order made under this sub-rule is in force with respect to any undertaking or part of an undertaking—

(a) the authorised controller shall exercise his functions in accordance with any instructions given to him by the Central Government, so, however, that he shall not have power to give any directions inconsistent with the provisions of any Act or other instrument determining the functions of the undertakers except in so far as may be specifically provided by the order; and

(b) the undertaking or part shall be carried on in accordance with any directions given by the authorised controller in accordance with the provisions of the order, and any person having any functions of management in relation to the undertaking or part shall comply with any such directions."

Published in the "*Gazette of India*", Part I, dated the 28th June 1941.

DEFENCE CO-ORDINATION DEPARTMENT.

Simla, the 28th June 1941.

No. 890-O. R/41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

In clause (c) of sub-rule (5) of rule 29 of the said Rules, for the words "the Provincial Government" the words "the Central Government or the Provincial Government" shall be substituted.

Published in the "*Gazette of India*", Part I, dated the 5th July, 1941.

DEFENCE CO-ORDINATION DEPARTMENT.

Simla, the 5th July 1941.

No. 902-S. M./41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

In rule 127 of the said Rules, after the words "Central Government", the words "or the Provincial Government" shall be inserted.

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DEFENCE CO-ORDINATION DEPARTMENT.

Simla, the 12th July, 1941.

No. 931-O R/41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendments shall be made in the Defence of India Rules, namely:—

After rule 92 of the said Rules, the following rules shall be inserted, namely:—

"92A. *Restrictions on payments, etc.*—(i) For the purposes of this rule,—

(i) "sterling area" means His Majesty's dominions, excluding Canada, Newfoundland and Hongkong, the British protectorates and protected States, and such other territories as may be declared by the Reserve Bank of India to be included for the time being in the sterling area;

(ii) "security" includes shares, stock bonds, debentures, debenture stock, deposit receipts in respect of the deposit of securities, units or sub-units of a unit trust, coupons representing dividends or interest, and life or endowment assurance policies, but does not include bills of exchange and promissory notes;

(iii) "transfer" includes, in relation to any security, transfer by way of loan or security.

(2) Subject to any exemptions which may be granted by the Reserve Bank of India, no person resident in British India shall, except with the permission of the Reserve Bank of India—

(a) draw, issue or negotiate any bill of exchange or promissory note, or acknowledge any debt, so that a right (whether actual or contingent) to receive a payment in India is created or transferred in favour of a person who is resident outside the sterling area; or

(b) make any payment to, or by the order or on behalf of, any such person.

(3) Subject to any exemptions which may be granted by the Reserve Bank of India, no person resident in British India shall, except with the permission of the Reserve Bank of India,—

(a) draw, issue or negotiate any bill of exchange or promissory note, transfer any security or acknowledge any debt, so that a right (whether actual or contingent) to receive a payment in India is created or transferred in favour of a person not resident outside the sterling area as consideration for, or in association with,—

(i) the receipt by any person of a payment, or the acquisition by any person of property, outside the sterling area, or

(ii) the creation or transfer, in favour of any person of a right (whether actual or contingent) to receive a payment, or acquire property, outside the sterling area; or

(b) make any payment to a person not resident outside the sterling area as such consideration or in such association as aforesaid.

(4) Where an individual has at any time since the third day of September 1939 resided in British India,—

(a) until the Reserve Bank of India otherwise direct, he shall be treated for the purposes of this rule and of any order providing for exemptions from any of the provisions thereof, as having been, and as still being resident in British India and not resident outside the sterling area, and

(b) if any such direction is given, the Reserve Bank of India may, by the same or a subsequent direction, declare the territory in which, for those purposes, he is to be treated as being resident

(5) In the case of any persons to whom sub-rule (4) does not apply, the Reserve Bank of India may give directions declaring the territories in which, for the purposes of this rule and of any order providing for exemptions from any of the provisions thereof, they are to be treated as being resident.

(6) Any direction given under sub-rule (4) or sub-rule (5) may be either general or special, and may be revoked or varied by a subsequent direction thereunder.

(7) If any person contravenes the provisions of this rule he shall be punishable with imprisonment for a term which may extend to five years or with fine or with both.

(8) Nothing in this rule shall restrict the doing by a person authorised by or on behalf of the Reserve Bank of India of anything within the scope of his authority

92B. Blocked accounts.—(1) For the purpose of this rule,—

(i) the expression "blocked account" means an account blocked by an order of the Reserve Bank of India, or an account opened as a blocked account, at an office or branch in British India of a bank authorised by the Reserve Bank of India to open blocked accounts; and

(ii) the expression "the banker" means, in relation to any person, a banker who opens or keeps a blocked account in favour of that person.

(2) Where permission is granted by the Reserve Bank of India for the payment of any sum to any person resident outside the sterling area, but the permission is granted subject to the condition that the payment is made to a blocked account,—

(a) the manner in which the payment may be made shall be either—

(i) to the banker with a direction that it is to be credited to a blocked account of that person [which direction may, in the case of a payment by means of a cheque or warrant, be made by marking the cheque or warrant with the words 'blocked account of' (naming the person in question) or words to the same effect]; or

(ii) by a crossed cheque or warrant drawn in favour of that person, marked with the words 'payable only to blocked account of payee' or words to the same effect;

(b) the sum collected shall be credited by the banker to a blocked account of that person; and

(c) the crediting of that sum to that account shall, to the extent of the sum credited, be a good discharge of the person making the payment.

(3) Subject to any exemptions which may be granted by order of the Reserve Bank of India, any sum standing to the credit of a blocked account shall not be dealt with except and in accordance with permission granted by the Reserve Bank of India."

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DEFENCE CO-ORDINATION DEPARTMENT.

Simla, the 19th July, 1941.

No. 836-O.R./41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendments shall be made in the Defence of India Rules, namely:—

In the said Rules,—

(1) after rule 8, the following rule shall be inserted, namely:—

"**8A. Forcing or evading a guard.**—Any person who effects or attempts to effect entry into a prohibited place, protected place or protected area

(a) by using, or threatening to use, criminal force to any person posted for the purpose of protecting, or of preventing or controlling access to such place or area, or

(b) after taking precautions to conceal his entry or attempted entry from any such person, shall be punishable with imprisonment for a term which may extend to seven years";

(2) in sub-rule (3) of rule 130, after the words "a contravention of", the words, figure and letter "rule 8A or" shall be inserted.

No. 936-O.R./41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendments shall be made in the Defence of India Rules, namely:—

In the said Rules,

(1) in sub-rules (1), (2), (3) and (4) of rule 6 for the words "the Central Government" wherever they occur, the words "the Central Government or the Provincial Government" shall be substituted;

(2) for sub-rule (1) of rule 9, the following sub-rule shall be substituted, namely:—

"(1) Without prejudice to the provisions of any other rule, the Central Government or the Provincial Government, as respects—

(a) any prohibited place,

(b) any place or area declared by it to be a protected place or protected area, or

(c) any other place or area in relation to which it appears to it to be necessary to take special precautions in the interests of the defence of British India, the public safety, the maintenance of public order, the efficient prosecution of war, or the maintenance of supplies and services essential to the life of the community,

may make orders for controlling or regulating the admission of persons to, and the conduct of persons in, and in the vicinity of, such place or area"

Published in the "*Gazette of India*", Part I, dated the 26th July, 1941.

DEFENCE CO-ORDINATION DEPARTMENT.

Simla, the 26th July, 1941.

No. 509-O.R/40. In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

For rule 16 of the said Rules, the following rule shall be substituted, namely:—

"**16. Control of wireless telegraphy.**—(1) In this rule, "telegraph" has the same meaning as in the Indian Telegraph Act, 1885, and "wireless telegraphy apparatus" has the same meaning as in the Indian Wireless Telegraphy Act, 1933.

(2) Notwithstanding anything contained in the Indian Telegraph Act, 1885, or the Indian Wireless Telegraphy Act, 1933, or in the rules made under either of those Acts, the Central Government may, by general or special order prohibit or regulate the establishing, maintaining or working of any wireless telegraph or the possession of any wireless telegraphy apparatus.

(3) If any wireless telegraph is established, maintained or worked, or any wireless telegraphy apparatus is possessed, in contravention of an order made under sub-rule (2), the person so establishing, maintaining or working the telegraph or possessing the apparatus, and the occupier of the premises on which the telegraph or apparatus is situated, or where the telegraph or apparatus is on board any vessel or aircraft, the master of the vessel or the pilot of the aircraft, as the case may be, shall each be deemed to have contravened the order:

Provided that, in any proceedings which, by virtue of the provisions of this sub-rule, are taken against any person in respect of the establishing, maintaining or working of a wireless telegraph or the possession of wireless telegraphy apparatus by some other person in contravention of an order made under sub-rule (2), it shall be a defence for the accused to prove that the telegraph was so established, maintained or worked or the apparatus was so possessed, without his permission, and that he exercised all due diligence to prevent any contravention of the order.

(4) Any member of His Majesty's forces or any other person authorised in this behalf by the Central Government may, in relation to any vessel or aircraft, take such steps and use such force as may appear to that member or person to be necessary for securing compliance with any order made under sub-rule (2), or where a contravention of such an order has occurred, for enabling proceedings in respect of the contravention to be taken.

(5) If any person has in his possession any wireless telegraphy apparatus in contravention of any of the provisions of the Indian Wireless Telegraphy Act, 1933, or of the rules made thereunder, he shall be deemed to have contravened the provisions of this rule.

(6) An officer authorised by the Central or a Provincial Government in this behalf may seize any wireless telegraphy apparatus which is possessed or used by any person in contravention of this rule or of any of the provisions of the Indian Wireless Telegraphy Act, 1933, and keep it in safe custody subject to the orders of any court under this rule or of the Government.

(7) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to five years or with fine or with both.

(8) For the purposes of this rule a court may presume that a person possesses wireless telegraphy apparatus if such apparatus is under his ostensible charge or is located in any premises or place over which he has effective control.

(9) If in the trial of an offence under this rule the accused is convicted, the court shall decide whether any wireless telegraph or wireless telegraphy apparatus in respect of which an offence has been committed should be confiscated, and, if it so decides, may order confiscation accordingly."

No. 895-S.M./41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

In rule 57 of the said Rules—

(1) in sub-rules (1) and (2), after the words "Central Government", the words "or the Provincial Government" shall be inserted;

(2) in sub-rule (3), for the words "The Central Government may", the words "The Central Government or the Provincial Government may" shall be substituted, and for the words "ordered by the Central Government", the words "ordered by that Government" shall be substituted.

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DEFENCE CO-ORDINATION DEPARTMENT.

Simla, the 28th July, 1941.

No. 958-OR/44.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

After rule 92B of the said Rules, the following rule shall be inserted, namely:—

"92C. *Power to prohibit action on certain orders as to gold, etc.*—(1) If the Central Government is of opinion that it is necessary or expedient so to do for securing the defence of British India or the efficient prosecution of war, the Central Government may give general or special directions prohibiting, either absolutely or to such extent as may be specified in the directions, the carrying out of any order given by or on behalf of—

(a) any State which may be specified in the directions, the Sovereign thereof, or any person resident therein, or

(b) any body corporate which is incorporated under the laws of that State or is under the control of that State or the Sovereign thereof or any person resident therein,

in so far as the order—

(i) requires the person to whom the order is given to make any payment or to part with any gold or securities, or

(ii) requires any change to be made in the persons to whose credit any sum is to stand or to whose order any gold or securities are to be held.

(2) If any person contravenes any direction given under this rule, he shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both."

Published in the "*Gazette of India*", Part I, dated the 2nd August, 1941.

DEFENCE CO-ORDINATION DEPARTMENT.

Simla, the 2nd August, 1941.

No. 960-O.R./41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

For clause (bb) of sub-rule (2) of rule 81 of the said Rules, the following clause shall be substituted, namely:—

"(bb) for regulating the letting and sub-letting in any urban area (including a cantonment) of residential accommodation, whether furnished or unfurnished and whether with or without board, and in particular,—

(i) for controlling the rents for such accommodation,

(ii) for preventing the unreasonable eviction of tenants and sub-tenants from such accommodation, and

(iii) for requiring such accommodation to be let either generally, or to specified persons or classes of persons, or in specified circumstances;"

No. 863-O.R./41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

For sub-rule (1) of rule 88 of the said Rules, the following sub-rule shall be substituted, namely:—

"(1) If it appears to the Central Government to be necessary or expedient so to do for securing the defence of British India or the efficient prosecution of war, or for maintaining supplies essential to the life of the community, the Central Government may by notified order declare that such restrictions imposed by or under any law for the time being in force as may be specified in the order shall not apply to the loading, unloading, handling, storage or conveyance of ammunition, explosives or inflammable substances in the service of His Majesty, or under instructions given on behalf of Government, or for purposes of defence, or in such other circumstances as may be specified in the order."

Published in the "*Gazette of India*", Part I, dated the 9th August, 1941.

DEFENCE CO-ORDINATION DEPARTMENT.

Simla, the 9th August, 1941.

No. 734-O.R./41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

In sub-rule (1) of rule 96 of the said Rules, for the figures, word and brackets "79, 80 and 81 (3)", the figures and word "79 and 80" shall be substituted.

No. 843-O.R./41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely :—

After rule 62 of the said Rules, the following rule shall be inserted, namely :—

“62-A. Measures for safety of vessels in ports.—(1) The Central Government may by order make provision for securing that there shall be kept on board any vessel or class of vessels while in port in British India such class or description of persons, or such number of persons, or such number of persons of such class or description, as may be specified in the order.

(2) Any member of His Majesty's forces acting in the course of his duty as such, or any other person authorised in this behalf by the Central Government, may at any time board and inspect any vessel to which any such order applies for the purpose of ascertaining whether the provisions of the order are being complied with.

(3) If any order made under sub-rule (1) is contravened, the master of the vessel and the owner or other person having the management thereof shall each be deemed to have contravened the order, and shall be punishable with imprisonment for a term which may extend to six months or with fine or with both.”

No. 944/O-R/41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely :—

In sub-rule (3) of rule 130 of the said Rules, for the words, figures and letter “rule 8-A. or rule 35”, the words, figures and letter “any of the following rules, namely, 8-A., 35, 98 and 104,” shall be substituted.

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DEFENCE COORDINATION DEPARTMENT.

Simla, the 12th August, 1941.

No. 972-OR/41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendments shall be made in the Defence of India Rules, namely :—

After sub rule (4) of rule 84 of the said Rules, the following sub-rule shall be added, namely :—

“(5) Notwithstanding anything contained in the Sea Customs Act, 1878, the Central Government may by order prohibit, restrict, or impose conditions on the clearance whether for home consumption or for shipment to a foreign port of any goods or class of goods imported into British India.”

Published in the “*Gazette of India*”, Part I, dated the 16th August 1941.
DEFENCE COORDINATION DEPARTMENT.

Simla, the 16th August, 1941.

No. 796-O.R./41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely :—

For rule 51-D of the said Rules, the following rule shall be substituted, namely :—

"51-D. Security of buildings.—(1) The Central Government or the Provincial Government may by order as respects any area specified in the order provide for securing that, subject to any exemptions for which provision may be made in the order, no building, or no building of such class as may be specified in the order, shall be erected, extended or structurally altered except with the permission of that Government and in accordance with such requirements as to lay-out, materials and construction as that Government may impose, being requirements which it is in the opinion of that Government necessary to impose for the purpose of rendering the building less vulnerable to air raids or of affording better protection to persons using or resorting to it.

(2) If any person contravenes any of the provisions of an order made under this rule, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both."

No. 891-S.M./41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

In sub-rule (1) of rule 15 of the said Rules—

(i) for the words, "the Central Government may, if in the opinion of the Central Government", the words "or the Provincial Government, that Government may, if in its opinion" shall be substituted;

(ii) in clauses (a) and (c), for the words "the Central Government", the words "that Government" shall be substituted.

No. 949 OR/41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

In clause (bb) of sub-rule (2) of rule 81 of the said Rules, for the words and brackets "any urban area (including a cantonment)", the words "any area" shall be substituted.

Published in the "*Gazette of India*", Part I, dated the 23rd August 1941.

DEFENCE CO-ORDINATION DEPARTMENT.

Simla, the 23rd August, 1941.

No. 987-O.R./41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

After rule 51D of the said Rules, the following rule shall be inserted, namely:—

"51E. Camouflage.—(1) The Central Government or the Provincial Government may by order, as respects such premises as may be specified in the order,—

(a) require the owner of the premises to take such measures as may be specified in the order, or

(b) authorise any person to take such measures as may be so specified, being measures which are in the opinion of that Government necessary to secure that such premises are or can be made less readily recognisable in the event of hostile attack.

(2) No person shall, except with permission granted by or on behalf of the Central Government or the Provincial Government, as the case may be, remove, alter, or tamper with any work done in pursuance of this rule.

(3) If any person contravenes any of the provisions of this rule, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both."

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DEFENCE CO-ORDINATION DEPARTMENT.

Simla, the 4th September, 1941.

No. 1030-OR/41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

After rule 50 of the said Rules, the following rule shall be inserted, namely:—

"50A. *Defence Exercises*.—(1) The Central Government may by notified order authorise the carrying out of defence exercises in such area and during such period as may be specified in the order; and thereupon, within the area and during the period so specified—

(a) any persons engaged in the defence exercises may pass over, or encamp, construct works of a temporary character or execute manoeuvres on, any land, or supply themselves with water from any source of water;

(b) any officer of His Majesty's forces may, for the purposes of the defence exercises, give directions prohibiting or restricting the use of any part of a railway, water-way, road or path, or of any telegraph or telephone service, or of any premises ordinarily open to the public, and take such further measures as may be authorised in this behalf by general or special order of the Officer Commanding-in-Chief, the Command.

(2) Notwithstanding anything to the contrary contained in the Indian Railways Act, 1890, the Indian Telegraph Act, 1885, or any other enactment, every public servant shall be bound to comply with any directions, given to him under sub-rule (1).

(3) If any person contravenes any direction given under sub-rule (1) he shall be punishable with fine which may extend to one thousand rupees."

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DEFENCE CO-ORDINATION DEPARTMENT.

Simla, the 6th September, 1941.

No. 871-SM/41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

After rule 51E of the said Rules, the following rule shall be inserted, namely:—

"51F. *Power to require local authorities to take precautionary measures*.—(1) In this rule, "the appropriate Government" means, in relation to cantonment authorities and in relation to port authorities in major ports, the Central Government, and in relation to other local authorities the Provincial Government.

(2) The provisions of this rule and of any order made thereunder shall have effect notwithstanding anything contained in any law or instrument defining the powers, duties or obligations of a local authority.

(3) The appropriate Government may by order require any local authority to take, within such period as may be specified in the order, such measures as

may be so specified, being measures which are in the opinion of that Government necessary for the protection of persons and property under the control or within the jurisdiction of such authority from injury or damage, or for ensuring the due maintenance of the vital services of the authority, in the event of hostile attack; and thereupon—

(a) it shall be the duty of the local authority to comply with the order,

(b) the funds of the local authority shall be applicable to the payment of the charges and expenses incidental to such compliance, and

(c) priority shall be given to such compliance over all other duties and obligations of the local authority

(4) If in the opinion of the appropriate Government any local authority which has been ordered under sub-rule (3) to take any measures has failed to take, or is unlikely to complete, the measures within the period specified in the order, then, without prejudice to any other proceedings which may be taken in respect of the contravention of the order, the appropriate Government may cause the said measures to be taken or completed, and direct that the cost thereof shall be defrayed out of the funds of the local authority."

No 898-SM/41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendments shall be made in the Defence of India Rules, namely:—

In the said Rules,—

(1) in sub-rule (1) of rule 76-A and in rule 77, after the words "Central Government", wherever they occur, the words "or the Provincial Government" shall be inserted;

(2) in sub-rule (2) of rule 76-A,—

(i) after the words "disposal of the Central Government", the words "or, as the case may be, of the Provincial Government" shall be inserted;

(ii) for the words "as the Central Government", the words "as that Government" shall be substituted;

(3) in sub-rule (1) of rule 80,—

(i) for the words "the Central Government may", the words "the Central Government or the Provincial Government" shall be substituted;

(ii) for the words "to the Central Government" the words "to that Government" shall be substituted.

Published in the "*Gazette of India*", Extraordinary, dated the 15th September, 1941.

DEFENCE CO-ORDINATION DEPARTMENT.

Simla, the 10th September, 1941.

No. 1036-OR/41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

After rule 37 of the said Rules, the following rule shall be inserted, namely:—

"37-A *Articles likely to afford information or other assistance to the enemy.*—(1) The Central Government or the Provincial Government, if it is satisfied that any articles or articles of any class or description are likely to assist the enemy to obtain information of military value or otherwise to facilitate the preparation or carrying out of hostile operations, may by order make provision—

(a) for requiring any person who has any such article in his possession or under his control to report the fact to such authority as may be specified in the order ;

(b) for prohibiting or restricting the acquisition, sale, distribution, possession or disposal of such articles ;

(c) for requiring such articles to be placed in the custody of such authority as may be specified in the order ;

(d) for authorising or requiring the destruction of such articles ;

(e) for such incidental and supplementary matters as appear to the Central Government or the Provincial Government, as the case may be, to be necessary or expedient for the purposes of the order.

(2) If any person fails to comply with any order made in pursuance of this rule, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both."

Published in the "*Gazette of India*", Part I, dated the 20th September 1941.
DEFENCE CO-ORDINATION DEPARTMENT.

Simla, the 20th September 1941.

No. 877 S.M /41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely :—

In rule 128 of the said Rules, for the word and figures "12, 27, 49, 51, 52, 53, 57, 119 and 120" the word, figures and letters "12, 17, 27, 49, 51, 51A, 51B, 52, 53, 57, 76A, 78, 79, 80, 89, 118, 119 and 120" shall be substituted.

No. 927-OR/41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendments shall be made in the Defence of India Rules, namely :—

In clause (c) of sub-rule (2) of rule 81 of the said Rules—

(1) in sub-clause (iii), the word "and" shall be omitted ;

(2) in sub-clause (iv) for the words "workman" and "workmen" the words "employee" and "employees", respectively, shall be substituted ;

(3) after sub-clause (iv) the following sub-clause shall be added, namely :—

"(v) for requiring the undertaking to provide adequate safeguards against sabotage ;"

No. 871/S.M./41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely :—

After sub-rule (4) of rule 51C of the said Rules, the following sub-rule shall be inserted, namely :—

"(4A) For the purposes of this rule—

(i) "mine" means any mine subject to the operation of the Mines Act, 1923 ;

(ii) "factory" means any factory subject to the operation of the Factories Act, 1934, and includes any other premises which in the opinion of the Central Government are being used for maintaining supplies or services essential to the life of the community."

Published in the "*Gazette of India*", Extraordinary, dated 29th September 1941.

DEFENCE CO-ORDINATION DEPARTMENT

Simla, the 29th September 1941.

No. 1030-OR/41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

In rule 50A of the said Rules, sub-rule (3) shall be re-numbered as sub-rule (4), and before sub-rule (4) as so re-numbered, the following sub-rule shall be inserted, namely:—

"(3) Where any defence exercises are held under the provisions of sub-rule (1), compensation shall be paid for any damage to person or property or interference with rights or privileges arising from such exercises, including expense reasonably incurred in protecting person, property, rights or privileges; and assessment and payment of compensation shall be made in accordance with the provisions of section 6 of the Manoeuvres, Field Firing and Artillery Practice Act, 1938:—

Provided that no compensation shall be payable in respect of such interference arising out of any direction given or further measures taken under clause (b) of sub-rule (1)".

Published in the "*Gazette of India*", Part I, dated the 4th October 1941.

DEFENCE CO-ORDINATION DEPARTMENT.

Simla, the 4th October, 1941.

No. 824-OR/41.—In exercise of the powers conferred by sub-section (4) of section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the powers conferred on it by rules 12, 76, 78, 79, 80 and 127 of the Defence of India Rules shall be exercisable also by all Collectors within the limits of their respective jurisdictions.

No. 1053-OR/41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

In sub-rule (1) of rule 50 of the said Rules, after the words and figures "under rule 49," the words "or who have left their homes on account of actual or apprehended attack," shall be inserted.

Published in the "*Gazette of India*", Part I, dated the 11th October 1941.

DEFENCE CO-ORDINATION DEPARTMENT.

The 9th October 1941.

No. 1040-OR-41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

After rule 67 of the said Rules, the following rule shall be inserted, namely:—

"67A. *Power to restrict use of foreign ships.*—(1) In this rule "foreign ship" means a ship which is not a ship registered in the British Isles, or in India, or in British Burma, or in any Dominion as defined in the Statute of Westminster 1931, or in any Colony.

(2) The Central Government may by notified order make provision for regulating or restricting the charter by persons in British India, whether on their own behalf or as agents for other persons whether within or without British India, of foreign ships or of space of accommodation therein and the entering into agreements for the carriage of goods in foreign ships by or on behalf of persons in British India.

(3) If any person contravenes the provisions of any order made under sub-rule (2), he shall be punishable with fine."

The 11th October 1941.

No. 900-SM-41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendments shall be made in the Defence of India Rules, namely:—

In the said Rules,—

(1) for sub-rule (2) of rule 66, the following sub-rule shall be substituted, namely:—

"(2) Where the Central Government has requisitioned any vessel under sub-rule (1), the Central Government may use or deal with the vessel for such purpose and in such manner as may appear to it to be expedient, and may acquire it by serving on the owner or person having the management thereof a notice stating that the Central Government has acquired it in pursuance of this rule.

Where such notice of acquisition is served on the owner or person having the management of the vessel, then at the beginning of the day on which the notice is served the vessel shall vest in the Central Government free from any mortgage, pledge, lien or other similar obligation, and the period of the requisition thereof shall end."

(2) for sub-rule (3) of rule 72, the following sub-rule shall be substituted, namely:—

"(3) Where the Central Government has requisitioned any aircraft under sub-rule (1), the Central Government may use or deal with the aircraft for such purpose and in such manner as may appear to it to be expedient, and may acquire it by serving on the owner or person having the management thereof a notice stating that the Central Government has acquired it in pursuance of this rule.

Where such notice of acquisition is served on the owner or person having the management of the aircraft, then at the beginning of the day on which the notice is served the aircraft shall vest in the Central Government free from any mortgage, pledge, lien or other similar obligation, and the period of the requisition thereof shall end."

(3) for sub-rules (1), (2) and (3) of rule 83, the following sub-rules shall be substituted, namely:—

"(1) If in the opinion of the Central Government or Provincial Government it is necessary or expedient so to do for securing the defence of British India, the public safety, the maintenance of public order or the efficient prosecution of war, or for maintaining supplies, and services essential to the life of the community, that Government may by order in writing requisition any animal, product, article or thing, and may make such further orders as appear to that Government to be necessary or expedient in connection with the requisitioning.

(2) Where the Central Government or Provincial Government has requisitioned any animal, product, article or thing under sub-rule (1), that Government may use or deal with the animal, product, article or thing in such manner as may appear to it to be expedient, and may acquire it by serving on the owner thereof a notice stating that the Central or Provincial Government, as the case may be, has acquired it in pursuance of this rule.

Where such notice of acquisition is served on the owner of the animal, product, article or thing, then at the beginning of the day on which the notice is served the animal, product, article or thing shall vest in Government free from any mortgage, pledge, lien or other similar obligation, and the period of the requisition thereof shall end.

(3) Whenever in pursuance of sub-rule (1) or sub-rule (2), the Central Government or Provincial Government requisitions or acquires any animal, product, article or thing, the owner thereof shall be paid such compensation as that Government may determine."

(4) in sub-rule (3a) of rule 83, for the word "price", the words "compensation payable in respect" shall be substituted;

(5) in sub-rule (1) of rule 96, for the words "used or requisitioned", the words "used, requisitioned or acquired" shall be substituted, and after the word "requisitioning", the word "acquisition" shall be inserted.

No. 909-SM-41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

In sub-rule (1) of rule 129 of the said Rules, after the words "Central Government", the words "or of the Provincial Government" shall be inserted

Published in the "*Gazette of India*", Part I, dated 1st November 1941.

DEFENCE CO-ORDINATION DEPARTMENT.

New Delhi, the 1st November 1941.

No. 966-Ort-41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

After rule 51F of the said Rules, the following rule shall be inserted, namely:—

"51G. *Keeping of dangerous articles and substances.*—(1) The Central Government or the Provincial Government may by order, in respect of any articles or substances from the explosive or inflammable nature of which special risks are in the opinion of that Government likely to arise in the event of hostile attack, issue directions:—

(a) prohibiting the keeping of such articles or substances in or on such premises as may be specified in the order;

(b) prescribing the quantity of such articles or substances which may be kept in or on any premises;

(c) requiring the owner or occupier of any premises in or on which such articles or substances are kept to take such measures as may be specified in the order for the protection of persons or property therein or thereon, or in the vicinity thereof.

(d) for any incidental or supplementary matters for which that Government thinks it expedient for the purposes of the order to provide, including, in particular, the entering and inspection of premises to which the order relates with a view to securing compliance with the order.

2. If any person contravenes any order made in pursuance of this rule, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both."

Published in the "*Gazette of India*", Part I, dated the 22nd November 1941.
DEFENCE CO-ORDINATION DEPARTMENT.

New Delhi, the 22nd November 1941.

No. 728-OR/41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

After sub-clause (ii) of clause (a) of sub-rule (1) of rule 17 of the said Rules, the following sub-clause shall be inserted, namely:—

"(iia) where a direction has been given under sub-clause (ii), that the subscriber shall surrender all telephone apparatus and fittings on the premises to such person as may be specified;"

Published in the "*Gazette of India*", Part I, dated the 29th November 1941.
DEFENCE CO-ORDINATION DEPARTMENT.

New Delhi, the 29th November 1941.

No. 900-SM-41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be made in the Defence of India Rules, namely:—

In sub-rule (3a) of rule 83 of the said Rules—

(a) after the words "The Central Government", the words "or the Provincial Government" shall be inserted;

(b) in clause (b) for the words "the Central Government", the words "that Government" shall be substituted.

No. 899-SM-41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendments shall be made in the Defence of India Rules, namely:—

In rule 81 of the said Rules,—

(i) in sub-rule (2) after the words "Central Government" wherever they occur, the words "or the Provincial Government" shall be inserted,

(ii) in sub-rule (3),—

(a) after the words "Central Government" where they occur for the first time, and in clause (a) of the said sub-rule, after the words "by the Central Government," the words "or the Provincial Government" shall be inserted; and

(b) for the words "the Central Government may", the words "that Government may" shall be substituted.

No 1129-O. R. 41.—In exercise of the powers conferred by section 2 of the **Defence of India Act, 1939** (XXXV of 1939), the Central Government is pleased to direct that the following further amendment shall be

Bombay Acts, 1941.

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Bombay Acts

The City of Bombay Municipal Corporation (Extension of Term) Act, 1941.

The following Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, having been assented to by him on the 15th January 1941, was published in the *Bombay Government Gazette*, Part IV, dated the 18th January 1941.

Bombay Act No. I of 1941.

An Act to provide for the extension of the term of office of the members of the Bombay Municipal Corporation.

WHEREAS it is expedient to provide for the extension of the term of office of the members of the Municipal Corporation of the City of Bombay;

And whereas the Governor of Bombay has assumed to himself under the Proclamation, dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

Now, therefore, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

1. *Short title and duration.*—(1) This Act may be called the City of Bombay Municipal Corporation (Extension of Term) Act, 1941.

(2) It shall remain in force up to and inclusive of the first day of April, 1943.

2. *Extension of term of office of members of the Bombay Municipal Corporation.*—Notwithstanding anything contained in section 7 or 9 of the City of Bombay Municipal Act, 1888, hereinafter called "the said Act", the term of office of the members of the Municipal Corporation of the City of Bombay which by reason of the provisions of either of the said sections would have expired at noon on the first day of April 1942 is hereby extended to noon on the first day of April 1943 which day for the purposes of the said Act shall be deemed to be "the day of retirement" and no general elections shall be held or made to fill the vacancies of the said members on the expiry of the triennium in 1942, notwithstanding anything in the said Act contained.

The Bombay Prevention of Gambling (Amendment) Act, 1941.

The following Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, having been assented to by him on the 21st February 1941 was published in the *Bombay Government Gazette*, Part IV, dated the 27th February 1941.

Bombay Act No. II of 1941.

An Act to amend the Bombay Prevention of Gambling Act, 1887.

WHEREAS it is expedient to amend the Bombay Prevention of Gambling Act, 1887, for the purposes hereinafter appearing;

And Whereas the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

Now, therefore, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act :—

1. *Short title.*—This Act may be called the Bombay Prevention of Gambling (Amendment) Act, 1941.

2. *Amendment of section 3 of Bom. IV of 1887.*—In section 3 of the Bombay Prevention of Gambling Act, 1887, hereinafter called the said Act, in the last paragraph, for the words commencing with the words "using or keeping such house" and ending with the words "otherwise howsoever" the following shall be substituted, namely :—

"or keeping such house, room or place or of the person using such house, room or place whether he has a right to use the same or not, such profit or gain being either by way of a charge for the use of the instruments of gaming or of the house, room or place or otherwise howsoever".

3. *Amendment of section 4 of Bom. IV of 1887.*—In clause (a) of section 4 of the said Act, for the words "being the owner or occupier or having the use of any house, room or place, opens, keeps or uses the same", the words "opens, keeps or uses any house, room or place" shall be substituted.

The Bombay Local Authorities Census Expenses Contribution Act, 1941.

The following Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, having been assented to by him on the 10th March 1941 was published in the *Bombay Government Gazette*, Part IV, dated the 12th March 1941.

Bombay Act No. III of 1941.

An Act to provide for contributions by the local authorities to census expenses.

WHEREAS it is expedient to make provision for contribution by local authorities of a portion of the expenses to be incurred in connection with the taking of the census in British India during the year 1941;

And whereas the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

Now, therefore, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

1. *Short title and extent.*—This Act may be called the Bombay Local Authorities Census Expenses Contribution Act, 1941.

(2) It extends to the whole of the Province of Bombay.

2. *Definitions.*—In this Act unless there is anything repugnant in subject or context—

(1) "census" means the census taken in British India during the year 1941;

(2) "district" means any area over which a district local board has authority under the Bombay Local Boards Act, 1923; and

(3) "prescribed" means prescribed by rules made under this Act.

3. *Contributions by Municipalities and district local boards.*—(1) Notwithstanding anything contained in any law under which any municipality or district local board is constituted or established, the Provincial Government may direct that such portion as may be prescribed of the expenses incurred, whether before or after the commencement of this Act, in connection with the taking of the census within the limits of any municipality or district shall be charged to the funds of such municipality or to the local fund of such district:

Provided that the portion of such expenses which may be charged to the funds of the Municipal Corporation of the City of Bombay or of the Ahmedabad Borough Municipality shall not exceed one half:

Provided further that the portion of such expenses which may be charged to the local fund of any district shall not exceed an amount calculated at Rs. 200 for each taluka or mahal within such district.

(2) The sum directed to be charged under sub-section (1) shall be computed and paid in the prescribed manner.

4. *Rules.*—(1) The Provincial Government may make rules to carry out the purposes of this Act,

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the portion of the expenses incurred in connection with the taking of the census which may be charged under this Act to the funds of any municipality or to the local fund of any district; and

(b) the manner in which sums charged under this Act shall be computed and paid.

The Bombay Finance (Amendment) Act, 1941.

The following Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, having been assented to by the Governor General on the 22nd March 1941 was published in the *Bombay Government Gazette*, Part IV, dated the 27th March 1941.

Bombay Act No. IV of 1941.

An Act to amend the Bombay Finance Act, 1932.

WHEREAS it is expedient to amend the Bombay Finance Act, 1932, for the purposes hereinafter appearing ;

And Whereas the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature ;

Now, therefore, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act :—

1. *Short title and commencement.*—(1) This Act may be called the Bombay Finance (Amendment) Act, 1941.

(2) It shall come into force on 31st March 1941.

2. *Amendment of section 2 of Bombay II of 1932.*—In sub-section (3) of section 2 of the Bombay Finance Act, 1932 (hereinafter called "the said Act"), for the word "nine" the word "ten" shall be substituted.

3. *Amendment of section 15 of Bombay II of 1932.*—In sub-section (5) of section 15 of said Act,—

(1) after clause (e) the following new clause shall be inserted, namely :—

"(ee) in the entry in column 2 of Article 33 for the words 'as set forth in such instrument' the following shall be substituted, namely :—
'which is the subject-matter of the gift :

Provided that where an instrument of gift contains any provision for the revocation of the gift, the value of the property which is the subject-matter of the gift shall, for the purposes of duty, be determined as if no such provision were contained in the instrument.'"

(2) after clause (f), the following new clause shall be added, namely :—

"(g) in the entry in column 2 of Article 58,—

(i) the words 'as set forth in such settlement' shall be deleted ; and

(ii) after the words 'eight annas' the following shall be inserted, namely :—

'Provided further that where an instrument of settlement contains any provision for the revocation of the settlement, the amount or value of the property settled shall, for the purposes of duty, be determined as if no such provision were contained in the instrument.'"

4. *Amendment of section 18 of Bombay II of 1932.*—In section 18 of the said Act,—

(1) in the entry in column 2 of Article 33, for the word "as set forth in such instrument", the following shall be substituted, namely :—

"which is the subject-matter of the gift :

Provided that where an instrument of gift contains any provision for the revocation of the gift, the value of the property which is the subject-matter of the gift shall, for the purposes of duty, be determined as if no such provision were contained in the instrument".

(2) in the entry in column 2 of Article 58,—

(i) the words "as set forth in such settlement" wherever they occur shall be deleted; and

(ii) after the words "shall not exceed one rupee" the following shall be inserted, namely :—

"Provided further that where an instrument of settlement contains any provision for the revocation of the settlement, the amount or value of the property settled shall, for the purposes of duty, be determined as if no such provision were contained in the instrument."

5. Amendment of section 22 of Bombay II of 1932.—(1) In section 22 of the said Act for the word "ten" the word "eight" and for the word "five" the word "four" shall, respectively, be substituted.

(2) Nothing contained in this section shall affect the liability of any person to pay the Urban Immoveable Property tax in respect of any building or land or portion thereof for any period prior to the date of the coming into force of this Act at the rate at which it was leviable before such date.

6. Amendment of section 27 of Bombay II of 1932.—(1) In section 27 of the said Act, for sub-section (1) the following shall be substituted, namely :—

"(1) When any building or land assessed to Urban Immoveable Property tax is situated in the City of Bombay—

(a) if a drawback of the property tax is sanctioned in respect of such building or land under section 158 of the City of Bombay Municipal Act, 1888, on or after 1st October 1939, or

(b) if a refund of the property tax is sanctioned in respect of such building or land or any portion thereof under section 175 of the City of Bombay Municipal Act, 1888, on or after 1st October 1939, or

(c) if such building or any portion thereof is demolished or removed, otherwise than by order of the Municipal Commissioner for the City of Bombay on or after 1st April 1939 and notice in respect of such demolition or removal has been given to the Commissioner under section 153 of the City of Bombay Municipal Act, 1888,

the Municipal Corporation of the City of Bombay shall remit or refund such portion of the Urban Immoveable Property tax, in such manner and subject to such conditions as may be prescribed.

(7A) When any building or land assessed to Urban Immoveable Property tax is situated in any Municipal area other than the City of Bombay, if a remission or refund of the property tax is granted in respect of such building or land under sub-section (2) of section 69 of the Bombay District Municipal Act, 1901, or sub-section (2) of section 86 of the Bombay Municipal Boroughs Act, 1925, as the case may be, the Municipality concerned shall remit or refund such portion of the Urban Immoveable Property tax, in such manner and subject to such conditions as may be prescribed.

(1B) When any building or land assessed to Urban Immoveable Property tax is situated in the Cantonment of Ahmedabad, if a remission or refund of the property tax is granted in respect of such building or land

under section 75, 76 or 77 of the Cantonments Act, 1924, the Collector of Ahmedabad shall remit or refund such portion of the Urban Immoveable Property tax, in such manner and subject to such conditions as may be prescribed."

(2) *Amendments to have retrospective effect.*—The amendments made by this section in section 27 of the said Act shall be deemed to have been made and to have taken effect from the 1st day of April 1939.

(3) *Claims for remission or refund of the tax for any period before the commencement of this section not to be admitted if a refund of the tax for such period has been already granted.*—Notwithstanding anything contained in section 27 of the said Act as amended by this section, no claim for remission or refund of any portion of the Urban Immoveable Property tax, levied in respect of any building or land for any period prior to the date of the coming into force of this Act, shall be admitted, if remission or a refund of a portion of such tax levied for such period has been granted before such date.

7. *Insertion of new section 28A in Bombay II of 1932.*—After section 28 of the said Act, the following new section shall be inserted, namely :—

"28A. *Application of Part VI to certain areas subject to certain modifications.*—(1) The provisions of this Part shall continue to extend to any area specified in clause (iv) of section 20 notwithstanding such area ceasing to be a notified area, and being declared to be a municipal district under section 4 of the Bombay District Municipal Act, 1901, or a village under section 4 of the Bombay Village Panchayats Act, 1933.

(2) If such area is declared to be a municipal district, the provisions of this Part shall, after such declaration, apply to such area in such manner as they apply to any municipal area specified in clause (iii) of the said section 20.

(3) If such area is declared to be a village under section 4 of the Bombay Village Panchayats Act, 1933, the provisions of this Part shall after such declaration apply to such area subject to the following modifications :—

(i) in section 21—

(1) after sub-clause (b) in clause (1), the following new sub-clause shall be inserted, namely :—

'(bb) in villages the annual letting value determined in the manner prescribed ;

(2) in clause (2)—

(a) after the word 'have' where it occurs for the first time the words 'in the municipal areas and in the area of the Cantonment of Ahmedabad' shall be inserted ; and

(b) after the words 'as the case may be' the following shall be inserted, namely :—

'and in villages the same meanings as the words houses and lands have in the Bombay Village Panchayats Act, 1933.'

(3) after clause (5) the following new clause shall be inserted, namely :—

'(5A) "Panchayat" means a panchayat established under the Bombay Village Panchayats Act, 1933; and

(4) After clause (8) the following new clause shall be inserted, namely :—

(9) "Village" means a village as defined in clause (16) of section 3 of the Bombay Village Panchayats Act, 1933';

(ii) in section 22 in the second proviso after the words 'Provided further that' the words 'in the municipal areas and in the area of the Cantonment of Ahmedabad' shall be inserted;

(iii) in section 23 in clause (a) after the words 'local board' the words 'or a Panchayat' shall be inserted;

(iv) in section 24—

(1) in sub-section (1) after clause (b) the following new clause shall be inserted, namely :—

(a) in the areas within the limits of a village by the Collector or by such officer as he may authorize in this behalf; and

(2) in sub-section (2) in clause (b) after the word 'Ahmedabad' the words 'and in any area within the limits of a village' shall be inserted;

(v) in section 24A in sub-section (1) for the words 'Collector of Ahmedabad' the words 'Collector concerned' shall be substituted;

(vi) in section 27 after sub-section (1B) the following new sub-section shall be inserted, namely :—

(1C) When any building or land assessed to Urban Immoveable Property tax is situated in any village, if a remission or refund of the tax, levied on the owner or occupier of such building or land under the Bombay Village Panchayats Act, 1933, is granted under the said Act or the rules made thereunder, the Collector concerned shall remit or refund such portion of the Urban Immoveable Property tax, in such manner and subject to such conditions as may be prescribed; and

(vii) in section 29 in sub-section (2), after the words 'following matters' the following new clause shall be inserted, namely :—

(aa) the manner in which the annual letting value of buildings and lands in villages shall be determined;.

(4) If any portion of the Urban Immoveable Property tax due in respect of any building or land situate within any such notified area for any period prior to its ceasing to be a notified area has remained in arrears on the date on which such area ceased to be a notified area, such portion shall, notwithstanding anything contained in this Part or any law for the time being in force, be collected by the same authority by which and in the same manner in which such tax due in respect of the said building or land after such date may be collected."

The Bombay Rent Restriction (Amendment) Act, 1941.

The following Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, having been assented to by the Governor General on the 19th March 1941 was published in the *Bombay Government Gazette*, Part IV, dated the 27th March, 1941.

Bombay Act No. V of 1941.

An Act to amend the Bombay Rent Restriction Act, 1939.

WHEREAS it is expedient to amend the Bombay Rent Restriction Act, 1939, for the purpose hereinafter appearing;

And whereas the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section

THE BOMBAY AGRICULTURAL DEBTORS RELIEF (AMENDMENT) ACT, 1941.

93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature ;

Now, therefore, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act :—

1. *Short title and commencement.*—(1) This Act may be called the Bombay Rent Restriction (Amendment) Act, 1941.

(2) It shall come into force on 31st March 1941.

2. *Amendment of section 1 of Bom. XVI of 1939.*—In sub-section (3) of section 1 of the Bombay Rent Restriction Act, 1939, hereinafter called the said Act, for the figures "1941" the figures "1942" shall be substituted.

3. *Insertion of a new section 15A in Bom. XVI of 1939.*—After section 15 of the said Act, the following new section shall be inserted, namely :—

"15A. *Application of the Act to certain notified areas declared to be municipal districts or villages.*—The provisions of this Act shall continue to extend to any area specified in clause (iv) of sub-section (2) of section 1 notwithstanding such area ceasing to be a notified area and being declared to be a municipal district under section 4 of the Bombay District Municipal Act, 1901, or a village under section 4 of the Bombay Village Panchayats Act, 1933."

The Bombay Agricultural Debtors Relief (Amendment) Act, 1941.

The following Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, having been assented to by him on the 20th March, 1941 was published in the *Bombay Government Gazette*, Part IV, dated the 29th March 1941.

Bombay Act No. VI of 1941.

An Act to amend the Bombay Agricultural Debtors Relief Act, 1939.

WHEREAS it is expedient to amend the Bombay Agricultural Debtors Relief Act, 1939, for the purposes hereinafter appearing ;

And whereas the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature ;

Now, therefore, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act :—

1. *Short title.*—This Act may be called the Bombay Agricultural Debtors Relief (Amendment) Act, 1941.

2. *Amendment of section 1 of Bom. XXVIII of 1939.*—In section 1 of the Bombay Agricultural Debtors Relief Act, 1939, hereinafter called the said Act—

(a) in sub-section (2)—

(i) for the figures and word "17, 23, 32, 37 and 73" the figures, words and brackets "2, 3, 7, 17, 19, 20, 23, 25, 31, 32, sub-section (2) of section 33, 34, 37, 45, 47, 49, 53, 63, 65, 66, 73, 76, 77, 82 and 83" shall be substituted; and

(ii) for the words commencing with the words "and the rest of the Act" and ending with the words "island of Bombay", the words "The Provincial Government may, by notification in the Official Gazette, extend all or any

of the remaining provisions of this Act to such area other than the City of Bombay as may be specified in the notification." shall be substituted; and

(b) for sub-section (3) the following shall be substituted, namely:—

"(3) This section and sections 2, 3, 7, 17, 19, 20, 23, 25, 31, 32, sub-section (2) of sections 33, 34, 37, 45, 47, 49, 53, 63, 65, 66, 73, 76, 77, 82 and 83 shall come into force at once. The Provincial Government may, by notification in the Official Gazette, direct that all or any of the remaining provisions of this Act shall come into force in any area to which the said provisions have been extended under sub-section (2) on such date as may be specified in the notification."

3. Amendment of section 22 of Bom. XXVIII of 1939.—In section 22 of the said Act—

(a) in clause (a) of sub-section (1) after the words "outside the Province" the words and figure "or in any local area for which a Board has not been established under section 4" shall be inserted; and

(b) in clause (a) of sub-section (2) after the words "outside the Province" the words and figure "or in any local area for which a Board has not been established under section 4" shall be inserted.

4. Amendment of section 84 of Bom. XXVIII of 1939.—In section 84 of the said Act—

(a) for the words "On the date on which this Act comes into force" the words and figures "On the date on which a Board is established under section 4 for any local area, the provisions of sections 3 to 8 of" shall be substituted; and

(b) for the words "be deemed to have expired" the words "cease to have force in such area" shall be substituted.

5. Amendment of section 85 of Bom. XXVIII of 1939.—In section 85 of the said Act—

(a) for sub-section (1) the following shall be substituted, namely—

"(1) On the date on which a Board is established under section 4 for any local area (hereinafter referred to in this section as the aforesaid date) the Dekkhan Agriculturists' Relief Act, 1879, shall cease to have force in such area."

(b) in sub-section (2)—

(i) for the words "date on which this Act comes into force" the words "aforesaid date" shall be substituted;

(ii) for the words "before such date", the words "before the aforesaid date" shall be substituted; and

(iii) in the proviso, for the words "such repeal shall not" the words "nothing in this section shall" shall be substituted.

6. Amendment of section 86 of Bom. XXVIII of 1939.—In section 86 of the said Act—

(a) for the words "of the coming into force of this Act" the words and brackets "on which a Board is established for any local area (hereinafter referred to in this section as the aforesaid date)" shall be substituted;

(b) for the words and figures "notwithstanding its repeal by section 85 of this Act, be deemed to remain in force" the words and figures "notwithstanding anything contained in section 85 of this Act be deemed to remain in force in such area" shall be substituted;

(c) for the words "date of the coming into force of this Act" the words "aforesaid date" shall be substituted; and

(d) for the words "the coming into force of this Act" the words "the aforesaid date" shall be substituted.

The Bombay Tenancy (Amendment) Act, 1941.

The following Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, having been assented to by him on the 20th March 1941 was published in the *Bombay Government Gazette*, Part IV, dated the 29th March 1941.

Bombay Act No. VII of 1941.

An Act to amend the Bombay Tenancy Act, 1939.

WHEREAS it is expedient to amend the Bombay Tenancy Act, 1939, for the purposes hereinafter appearing ;

And whereas the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature ;

Now, therefore, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act :—

1. *Short title and commencement.*—(1) This Act may be called the Bombay Tenancy (Amendment) Act, 1941.

(2) It shall come into force on 31st March 1941.

2. *Amendment of section 1 of Bom. XXIX of 1939.*—In section 1 of the Bombay Tenancy Act, 1939, hereinafter called "the said Act", for sub-sections (2) and (3) the following shall be substituted, namely :—

"(2) This section extends to the whole of the Province of Bombay except the City of Bombay. The Provincial Government may, by notification in the Official Gazette, extend all or any of the remaining provisions of this Act to such area other than the City of Bombay as may be specified in the notification.

(3) This section shall come into force at once. The Provincial Government may, by notification in the Official Gazette, direct that all or any of the remaining provisions of this Act shall come into force in any area to which the said provisions have been extended under sub-section (2) on such date as may be specified in the notification."

3. *Amendment of section 4 of Bom. XXIX of 1939.*—In section 4 of the said Act,—

(a) in sub-section (1), for the words "this Act comes into force" the words "this section comes into force in the area in which the land is situated" shall be substituted ;

(b) in sub-section (2)—

(i) for the words "this Act", where they occur for the first time, the words "this section in the area in which the land is situated" shall be substituted ;

(ii) for the figures and words "31st day of May 1940" the figures and words "31st day of May immediately following the date of the coming into force of this section in the area in which the land is situated" shall be substituted ; and

(iii) for the figures and words "1st day of June 1940" the figures and words "1st day of June immediately following the date of the coming into force of this section in the area in which the land is situated" shall be substituted.

4. *Amendment of section 5 of Bom. XXIX of 1939.*—In clause (a) of sub-section (2) of section 5 of the said Act, for the figures and words "31st day of March 1939 within four months from the date on which this

Act comes into force" the figures and words "31st day of March of the year immediately preceding the year in which this section comes into force in the area in which the land is situated, within four months from the date of the coming into force of this section in such area" shall be substituted.

5. Amendment of section 19 of Bom. XXIX of 1939.—In sub-section (1) of section 19 of the said Act, for the words "before the coming into force of this Act" planted or thereafter plants any trees on the land leased to him," the words "before the date of the coming into force of this section in the area in which the land leased to him is situated, planted or thereafter plants any trees on such land" shall be substituted.

6. Amendment of section 23 of Bom. XXIX of 1939.—In section 23 of the said Act, for the words "made after the coming into force of this Act" the words "situated in any area in which this section comes into force, made after the coming into force of this section in such area" shall be substituted.

7. Amendment of section 29 of Bom. XXIX of 1939.—In section 29 of the said Act—

(a) for the words "this Act comes into force", the words, figures and brackets "the provisions of sections 2 to 13 (both inclusive) of this Act come into force in any area" shall be substituted; and

(b) after the word "repealed" the words "in such area" shall be inserted.

The Bombay Small Holders Relief (Amendment) Act, 1941.

The following Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, having been assented to by the Governor General on the 26th March 1941 was published in the *Bombay Government Gazette*, Part IV, dated the 29th March, 1941.

Bombay Act No. VIII of 1941:

An Act to amend the Bombay Small Holders Relief Act, 1938.

WHEREAS it is expedient to amend the Bombay Small Holders Relief Act, 1938, for the purposes hereinafter appearing;

And whereas the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

Now, therefore, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

1. Short title and commencement.—(1) This Act may be called the Bombay Small Holders Relief (Amendment) Act, 1941.

(2) It shall come into force on the 31st March 1941.

2. Amendment of section 1 of Bom. VIII of 1938.—In sub-section (3) of section 1 of the Bombay Small Holders Relief Act, 1938, hereinafter called "the said Act" for the figures "1941" the figures "1942" shall be substituted.

3. Amendment of section 3 of Bom. VIII of 1938.—In sub-section (2) of section 3 of the said Act, for the words "three years" where they occur at both the places, the words "four years" shall be substituted.

12 THE BOMBAY ABKARI (AMENDMENT) ACT, 1941.
THE BOMBAY INDUSTRIAL DISPUTES (AMENDMENT) ACT, 1941.

4. *Amendment of section 4 of Bom. VIII of 1938.*—In sub-section (1) of section 4 of the said Act, for the figures "1941" the figures "1942" shall be substituted.

5. *Amendment of section 9 of Bom. VIII of 1938.*—In sub-section (1) of section 9 of the said Act, for the figures "1940", where they occur at both the places, the figures "1941" shall be substituted.

6. *Amendment of section 11 of Bom. VIII of 1938.*—In section 11 of the said Act, for the words commencing with the words "this Act remains in force" and ending with the words "has not been passed" the words "any of the provisions of this Act remain in force, but the enforcement of which has been stayed by any of the provisions of this Act, shall immediately on such provisions ceasing to have force revive and be enforceable as if such provisions had not come into force" shall be substituted.

The Bombay Abkari (Amendment) Act, 1941.

The following Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, having been assented to by him on the 18th April 1941 was published in the *Bombay Government Gazette*, Part IV, dated the 26th April 1941.

Bombay Act No. IX of 1941.

An Act to amend the Bombay Abkari Act, 1878.

WHEREAS it is expedient to amend the Bombay Abkari Act, 1878, for the purpose hereinafter appearing;

And whereas the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

Now, therefore, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

1. *Short title.*—This Act may be called the Bombay Abkari (Amendment) Act, 1941.

2. *Repeal of Part IX-B and section 43-A of Bom. V of 1878.*—Part IX-B containing section 42-E and section 43-A of the Bombay Abkari Act, 1878, shall be repealed.

The Bombay Industrial Disputes (Amendment) Act, 1941.

The following Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, having been assented to by him on the 27th May 1941 was published in the *Bombay Government Gazette*, Part IV, dated the 29th May 1941.

Bombay Act No. X of 1941.

An Act to amend the Bombay Industrial Disputes Act, 1938.

WHEREAS it is expedient to amend the Bombay Industrial Disputes Act, 1938, for the purpose hereinafter appearing;

And Whereas the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

Now, therefore, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

1. *Short title.*—This Act may be called the Bombay Industrial Disputes (Amendment) Act, 1941.

2. *Insertion of new section 49A in Bom. XXV of 1938.*—After section 49 of the Bombay Industrial Disputes Act, 1938, hereinafter called the said Act, the following new section shall be inserted, namely:—

"49A. *Provincial Government may refer an industrial dispute to the Industrial Court for arbitration.*—Notwithstanding anything hereinbefore contained, the Provincial Government may, at any time, refer any industrial dispute to the arbitration of the Industrial Court, if it is satisfied that—

(1) a serious outbreak of disorder or a breach of the public peace is likely to occur, or

(2) serious or prolonged hardship to a large section of the community is likely to be caused by reason of the continuance of the industrial dispute; or

(3) the industry concerned is likely to be seriously affected and the prospects and scope for employment curtailed as a result of the continuance of the industrial dispute."

3. *Amendment of section 53 of Bom. XXV of 1938.*—To clause (6) of section 53 of the said Act, the word, figures and letter "or 49A" shall be added.

4. *Amendment of section 62 of Bom. XXV of 1938.*—In sub-section (1) of section 62 of the said Act—

(1) in clause (f) the word "or" at the end shall be deleted; and

(2) after clause (x) the following new clause shall be inserted, namely:—

"(ff) in cases where an industrial dispute has been referred to the arbitration of the Industrial Court under section 49A, before or until the date on which the arbitration proceedings are completed, or the date on which the award of the Industrial Court comes into operation, whichever is later; or".

5. *Amendment of section 63 of Bom. XXV of 1938.*—In sub-section (1) of section 63 of the said Act—

(1) in clause (s) the word "or" at the end shall be deleted; and

(2) after clause (e), the following new clause shall be inserted, namely:—

"(ee) in cases where an industrial dispute has been referred to the arbitration of the Industrial Court under section 49A, before or until the date on which the arbitration proceedings are completed or the date on which the award of the Industrial Court comes into operation, whichever is latter; or".

14. THE BOMBAY (EMERGENCY POWERS) WHIPPING ACT, 1941.

The Bombay (Emergency Powers) Whipping Act, 1941.

The following Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, having been assented to by the Governor General on the 27th May 1941, was published in the *Bombay Government Gazette*, Part IV, dated the 29th May 1941:

Bombay Act No. XI of 1941.

An Act to amend the law relating to the punishment of whipping in the Province of Bombay.

WHEREAS it is expedient to amend the law relating to the punishment of whipping in the Province of Bombay;

And Whereas the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

Now, therefore, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

1. *Short title.*—This Act may be called the Bombay (Emergency Powers) Whipping Act, 1941.

2. *Extent and commencement.*—(1) This Act shall extend to the whole of the Province of Bombay.

(2) Section 1, this section and section 4 shall come into force at once. The Provincial Government may, by notification in the Official Gazette, direct that Section 3 shall come into force in such area and from such date as may be specified in such notification.

3. *Punishment of whipping for certain offences.*—In addition to the persons who may be punished with whipping under section 4 of the Whipping Act, 1909, whoever commits or abets the commission of any offence punishable under section 147, 148, 324, 325, 326, 435 or 436 of the Indian Penal Code may be punished with whipping in addition to any punishment to which he may be liable for such offence or for abetment of such offence under the said Code.

4. *Repeal of Bom. X of 1933.*—The Bombay (Emergency Powers) Whipping Act, 1933, is repealed.

The Code of Criminal Procedure (Bombay Amendment) Act, 1941.

The following Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, having been assented to by the Governor General on the 10th June 1941 was published in the *Bombay Government Gazette*, Part IV, dated the 19th June 1941.

Bombay Act No. XII of 1941.

An Act to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay.

WHEREAS it is expedient to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay for the purpose hereinafter appearing;

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation, dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

Now, therefore, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

1. *Short title.*—This Act may be called the Code of Criminal Procedure (Bombay Amendment) Act, 1941.

2. *Amendment of section 162 of Act V of 1898.*—In sub-section (2) of section 162 of the Code of Criminal Procedure, 1898, in its application to the Province of Bombay, for the words, figures and brackets "apply to any statement falling within the provisions of section 32, clause (1), of the Indian Evidence Act, 1872." the following shall be substituted, namely:—

"affect the provisions of section 27 of the Indian Evidence Act, 1872, or to apply to any statement falling within the provisions of clause (1) of section 32 of that Act."

The Bombay District Police and the City of Bombay Police (Amendment) Act, 1941.

The following Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, having been assented to by him on the 5th August 1941 was published in the *Bombay Government Gazette*, Part IV, dated the 2nd September 1941.

Bombay Act No. XIII of 1941.

An Act to amend the Bombay District Police Act, 1890, and the City of Bombay Police Act, 1902.

WHEREAS it is expedient to amend the Bombay District Police Act, 1890, and the City of Bombay Police Act, 1902, for the purposes hereinafter appearing;

And Whereas the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

Now, therefore, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

1. *Short title.*—This Act may be called the Bombay District Police and City of Bombay Police (Amendment) Act, 1941.

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2. *Insertion of new section 39B in Bombay IV of 1890.*—After section 39A of the Bombay District Police Act, 1890, the following new section shall be inserted, namely:—

"39B. *District Magistrate may authorise erection of barriers on streets.*—The Magistrate of the district may, whenever in his opinion such action is necessary, authorise the Police to erect barriers on any street for the purpose of stopping temporarily vehicles driven on such street and satisfying themselves that the provisions of any law for the time being in force have not been contravened in respect of any such vehicle or by the driver of or the person in charge of such vehicle. The Magistrate of the district may also make such orders as he deems fit for regulating the use of such barriers."

3. *Insertion of new section 29B in Bombay IV of 1902.*—After section 29A of the City of Bombay Police Act, 1902, the following new section shall be inserted, namely:—

"29B. *Commissioner of Police may authorise erection of barriers on streets.*—The Commissioner of Police may, whenever in his opinion such action is necessary, authorise the Police to erect barriers on any street for the purpose of stopping temporarily vehicles driven on such street and satisfying themselves that the provisions of any law for the time being in force have not been contravened in respect of any such vehicle or by the driver of or the person in charge of such vehicle. The Commissioner of Police may also make such orders as he deems fit for regulating the use of such barriers."

STATEMENT.

There has hitherto been no effective means in law available to the Police to stop vehicles on the roads. It has been found that the signals of policemen requiring vehicles to be halted are habitually disobeyed by drivers, particularly of motor-trucks.

It has, therefore, been decided to give power to the Commissioner of Police, Bombay, and District Magistrates to authorise the Police to erect barriers on any street for the purpose of stopping temporarily vehicles driven on such streets in order to satisfy themselves that the provisions of any law have not been contravened.

The amendments now made in the Bombay District Police Act, 1890, and the City of Bombay Police Act, 1902, are intended to carry out this object.

The Bombay Agricultural Pests and Diseases Act, 1941.

The following Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, having been assented to by him on the 3rd September 1941 was published in the *Bombay Government Gazette*, Part IV dated the 12th September 1941.

Bombay Act No. XIV of 1941.

An Act to provide for the prevention of the introduction, spread or re-appearance of insect pests, plant diseases and noxious weeds injurious to crops, plants or trees in the Province of Bombay.

WHEREAS it is expedient to provide for the prevention of the introduction, spread or re-appearance of insect pests, plant diseases

and noxious weeds injurious to crops, plants or trees in the Province of Bombay.

And Whereas the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

Now, therefore, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

PART I.—PRELIMINARY.

1. *Short title*—(1) This Act may be called the Bombay Agricultural Pests and Diseases Act, 1941.

(2) It extends to the whole of the Province of Bombay.

2. *Definitions*.—In this Act unless there is anything repugnant in the subject or context—

(1) "Assessor" means an assessor appointed under section 14;

(2) "Insect pest" means any pest declared to be an insect pest by notification under section 3;

(3) "Inspector" means an inspector appointed under section 14;

(4) "Notified Area" means any area specified in the notification issued under section 3 in which a declaration made under the said section shall remain in force;

(5) "Noxious weed" means any weed declared to be a noxious weed by notification under section 3;

(6) "Occupier" means the persons having for the time being the right of occupation of any land or premises, or his authorised agent or any person in actual occupation of the land or premises;

(7) "Pest" means any insect or other invertebrate animal;

(8) "Plant" includes the fruit, leaves, bark, cuttings and any living portion of a plant but does not include the seed;

Provided that the Provincial Government may by notification in the Official Gazette direct that the seed of any particular plant shall be included in the definition of plant.

(9) "Plant disease" means any fungoid, bacterial, parasitical or other disease declared to be a plant disease by notification under section 3;

(10) "Prescribed" means prescribed by rules made under section 17.

PART II.—INSECT PESTS, PLANT DISEASES AND NOXIOUS WEEDS.

3. *Power to declare insect pests, plant diseases and noxious weeds and direct measures to eradicate or prevent them*.—Whenever it appears to the Provincial Government that any pest, diseases or weed is injurious to crops, plants or trees in any local area and that it is necessary to take measures to eradicate such pest, disease or weed, or to prevent its introduction, spread or re-appearance, the Provincial Government may, by notification in the Official Gazette,—

(i) declare that such pest, disease or weed is an insect pest, plant disease or noxious weed;

(ii) specify the local area within which and the period during which such declaration shall remain in force;

(iii) prohibit or restrict the removal of any plant or tree from one place to another, and

(iv) direct the carrying out of such preventive or remedial measures including the destruction of any pest, disease or noxious weed or any crops, plants or trees, as the Provincial Government may deem necessary, in order to eradicate such pest, disease or weed or to prevent its introduction, spread or re-appearance.

4. *Duties of occupier on the issue of a notification under section 3.*—On the issue of a notification under section 3, every occupier within the notified area shall carry out the preventive or remedial measures mentioned in such notification.

5. *Power of Inspector to enter upon any land or premises.*—Any Inspector may, after giving the prescribed notice, enter upon any land or premises situated in a notified area for the purpose of ascertaining—

(i) whether there is any insect pest, plant disease or noxious weed on such land or premises; and

(ii) whether the preventive or remedial measures mentioned in the notification issued under section 3 have been carried out.

6. *Notice to occupier to carry out preventive or remedial measures.*—(1) If, on the inspection of any land or premises under section 5, the Inspector finds that there is any insect pest, plant disease or noxious weed on such land or premises or that the preventive or remedial measures mentioned in the notification issued under section 3 have not been carried out, the Inspector may, subject to the general or special orders of the Provincial Government, call upon the occupier of such land or premises, by notice in writing, to carry out such preventive or remedial measures within the time specified in such notice.

(2) Within seven days from the date of the service upon him of the notice under sub-section (1), the occupier may prefer an appeal to the Collector or such other officer as the Collector may appoint in this behalf.

(3) On receipt of the appeal under sub-section (2) the Collector or other officer, as the case may be, may extend the time specified in the notice under sub-section (1) and shall, after giving the occupier an opportunity of being heard, pass such order on the appeal as he thinks fit.

(4) Every order passed under sub-section (3) shall be final.

7. *Failure to comply with notice under section 6 and power of Inspector to carry out measures.*—(1) If an occupier upon whom a notice has been served under sub-section (1) of section 6 does not comply with such notice within the time specified therein, or if an appeal has been preferred under sub-section (2) of section 6, does not comply with the order passed on such appeal, the Inspector may carry out the preventive or remedial measures mentioned in such notice or order.

(2) The costs of any preventive or remedial measures carried out under sub-section (1) shall be payable by the occupier and shall be recoverable from him as an arrear of land revenue.

(3) Any such occupier may, within thirty days from the date of the first demand of such costs from him, prefer an appeal to the Collector or to such other officer as the Collector may appoint in this behalf on the ground that—

(i) the costs include charges for items other than the cost of labour, material or use of implements, or

(ii) the charges for labour or material or use of implements are unreasonably high.

(4) On receipt of the appeal under sub-section (3), the Collector or other officer, as the case may be, shall, after giving the occupier an opportunity of being heard, pass such order thereon as he thinks fit.

(5) Every order passed under sub-section (4) shall be final.

8. Compensation for destruction of trees or plants.—(1) If, in carrying out any preventive or remedial measures under sub-section (1) of section 7, the Inspector destroys or causes to be destroyed—

(a) any tree which is infected with an insect pest or a plant disease, or

(b) any plants some or all of which are infected with insect pest or plant disease and which are grown so closely together that it is not practicable to treat each plant individually, or

(c) any plants or trees, which though not infected at the time with an insect pest or a plant disease, are, in the opinion of the Inspector, liable to such infection,

the Inspector shall give notice to the occupier of the land or premises on which such trees or plants were grown stating particulars of the trees or plants destroyed and his estimate of their value.

(2) When any tree or plant is destroyed under sub-section (1), the occupier shall be entitled to compensation determined in the manner provided in section 11.

9. Compensation for trees or plants destroyed by occupier.—If an occupier in carrying out any preventive or remedial measures, directed to be carried out by the notification issued under section 3 or the notice given under sub-section (1) of section 6, destroys any tree or plant in accordance with such direction, he shall be entitled to such compensation as he would have been entitled to under section 8 if such tree or plant had been destroyed by the Inspector.

10. Procedure for claims for compensation.—Every claim for compensation shall be made in writing to the Assessor within one month from the date of—

(i) the notice given under sub-section (1) of section 8, if the claim is made under the said section, or

(ii) the destruction of the tree or plant, as the case may be, if the claim is made under section 9.

11. Award of Assessor; Appeal.—(1) On receipt of any claim under section 10, the Assessor shall, subject to the provisions of sub-section (2) and after making an enquiry in the prescribed manner taking such evidence as he thinks fit, fix the amount of compensation due to the occupier under the provisions of this Act and make an award for such amount.

(2) The amount of compensation shall—

(a) for every destroyed tree of the kind referred to in clause (a) of sub-section (1) of section 8, not exceed one half of the value of the said tree;

(b) for every destroyed plant of the kind referred to in clause (b) of sub-section (1) of section 8, not exceed the three-fifths of its value; and

(o) for every destroyed plant or tree of the kind referred to in clause (o) of sub-section (1) of section 8, be its full value.

Provided that no compensation shall be payable for—

- (i) any noxious weed destroyed;
- (ii) any cotton plant destroyed in order to eradicate or prevent the introduction or re-appearance of any insect pest or plant disease;
- (iii) the destruction of trees and plants infected with any insect pest or plant disease which in the opinion of the Inspector contracted infection due to the negligence of the occupier in carrying out the preventive or remedial measures mentioned in the notification issued under section 3.

Explanation.—For the purposes of this section, value means the value of a tree or plant at the time of its destruction,

(3) If any amount is due from the occupier on account of costs incurred in carrying out the preventive or remedial measures under sub-section (1) of section 7, the whole or part of the amount of compensation awarded to him, as may be necessary, shall be set off against the amount of costs due from him.

(4) A copy of every award made by an Assessor shall be sent to the occupier to whom such compensation has been awarded and to the Inspector of the notified area concerned.

(5) The occupier or the Inspector, as the case may be, may, within 30 days from the date of receipt of a copy of the award under sub-section (4), prefer an appeal to the Collector against the award.

(6) On receipt of the appeal under sub-section (5), the Collector shall, after giving the occupier and the Inspector an opportunity of being heard, pass such order thereon as he thinks fit.

(7) Every order passed under sub-section (6) shall be final.

12. Duty of certain village officers to report appearance of insect pest, plant disease or noxious weed.—(1) If any insect pest, plant disease or noxious weed appears in any village adjoining a notified area, the village officers of such village shall forthwith report the fact to the Collector or such other officer as the Provincial Government may appoint in this behalf.

(2) The Collector or such other officer, as the case may be, shall on receipt of such report and after making such further inquiry as he may deem necessary forward it to the Provincial Government with his remarks thereon.

13. Penalty.—(1) Whoever removes any plant or tree in contravention of the directions contained in a notification issued under section 3 shall, on conviction, be punishable with fine which may extend to Rs. 25.

(2) Any occupier who fails to comply with a notice given under sub-section (1) of section 6 or with any order passed on appeal under sub-section (3) of section 6 shall, on conviction, be punishable with fine which may extend to Rs. 25.

(3) Whoever commits a breach of the provisions of any rule made under section 17 shall, on conviction, be punishable with fine which may extend to Rs. 25.

(4) Whenever any person is convicted under this Act, the Court may, in addition to the penalty imposed under this Act, order the destruction

of any plant or tree of the kind referred in clause (a), (b) or (c) of sub-section (1) of section 8.

PART III.—GENERAL.

14. Appointment of Inspectors and Assessors.—The Provincial Government may, by notification in the Official Gazette, appoint persons as Inspectors and Assessors for such local areas as may be specified in the notification.

15. Bar of suit or other legal proceedings.—(1) No suit, prosecution or legal proceedings shall lie against any person in respect of anything in good faith done or intended to be done under this Act.

(2) No prosecution under this Act shall be commenced without the previous sanction of the Collector, nor after six months from the date of the commission of the alleged offence.

16. Delegation of powers.—The powers conferred on the Provincial Government under this Act may, with the exception of the powers under sections 3 and 17, be delegated by the Provincial Government to any officer.

17. Rules.—(1) The Provincial Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for all or any of the following purposes, namely :—

(i) the manner of giving notice under section 5 ;

(ii) the manner of making of an enquiry under sub-section (1) of section 11 ; and

(iii) the mode of determining the value of trees and plants for the purposes of this Act.

(3) The rules made under this section shall, subject to the condition of previous publication, be published in the Official Gazette.

STATEMENT.

As a result of the research work carried on at the Poona Agricultural College under the guidance of the Professor of Entomology and the Plant Pathologist for the protection of crops against damage from insect pests, and for the control of plant diseases and fungi, measures have now been devised which are seen to be effective. The pests and diseases which require attention are mildew, aphid, stem borer, cotton boll-worm, grass-hopper and coconut-tree pest, Koleroga disease of betel nut palms, etc., which, by damaging the crops, inflict a very considerable financial loss on the cultivators and also cause an indirect loss of revenue to Government. With a view to dealing with these pests in their early stages, the Co-operative and Rural Development Department has been carrying on intensive propaganda in the areas affected and has been assisting the cultivators in adopting the control measures recommended by the Agricultural Department. Owing to the apathy of some of the cultivators, however, and in the absence of real co-ordinated effort, it has not been found possible, so far, to eradicate these pests and diseases effectively. No measures against these pests are likely to succeed unless they are simultaneously brought into operation by all the landowners concerned. It is, therefore, absolutely essential for Government to take powers to coerce the recalcitrant minority which sets itself up in opposition against the wishes of the majority. The legislation proposed now is intended to facilitate the execution of such beneficent schemes of improvement.

The Bombay Abkari (Second Amendment) Act, 1941.

The following Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, having been assented to by the Governor General on the 9th October 1941 was published in the *Bombay Government Gazette*, Part IV, dated the 22nd October 1941.

Bombay Act No. XV of 1941.

An Act to amend the Bombay Abkari Act, 1878.

WHEREAS it is expedient to amend the Bombay Abkari Act, 1878, for the purposes hereinafter appearing ;

And Whereas the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature ;

Now, therefore, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act :—

1. *Short title.*—This Act may be called the Bombay Abkari (Second Amendment) Act, 1941.

2. *Amendment of section 4 of Bombay V of 1878.*—In section 4 of the Bombay Abkari Act, 1878 (hereinafter called the said Act) for the words "Subject to the control and direction of the Commissioner and the orders of the Provincial Government" the words, figure and letter "Subject to such orders as the Provincial Government or the Commissioner may from time to time make under section 8A" shall be substituted.

3. *Amendment of section 6 of Bombay V of 1878.*—In section 6 of the said Act, the words "subject to such orders as aforesaid" shall be deleted.

4. *Insertion of new section 8A in Bombay V of 1878.*—After section 8 of the said Act, the following new section shall be inserted, namely :—

"8A. *The Commissioner and other Abkari Officers to act subject to orders of Government.*—All Abkari Officers shall exercise the powers and perform the duties conferred and imposed on them by or under this Act in accordance with such orders as in the case of the Commissioner, the Provincial Government and in the case of other Abkari Officers, the Provincial Government or the Commissioner, may from time to time make."

5. *Amendment of sections 16 and 18A of Bombay V of 1878.*—In sub-section (1) of section 16 and section 18A of the said Act, the words "or pass" shall be deleted.

6. *Amendment of section 19A of Bombay V of 1878.*—In section 19A of the said Act the words "acting under the general or special orders of the Provincial Government" shall be deleted.

7. *Amendment of section 25 of Bombay V of 1878.*—In section 25 of the said Act, the words "acting under the general orders of the Provincial Government" shall be deleted.

8. *Insertion of new section 60A in Bombay V of 1878.*—After section 60 of the said Act, the following new section shall be inserted, namely :—

"60A. *Revision.*—The Provincial Government may call for and examine the record of any proceedings before any Abkari Officer for the

purpose of satisfying itself as to the correctness, legality or propriety of any order passed in and as to the regularity of such proceedings, and may either annul, reverse, modify or confirm such order or pass such other order as it may deem fit".

9. *Insertion of new section 64A in Bombay V of 1878.*—After section 64 of the said Act, the following new section shall be inserted, namely:—

"64A. *Power of Provincial Government to issue orders in all matters pertaining to licenses.*—Notwithstanding anything contained in this Act or the rules made under this Act, it shall be lawful and shall be deemed always to have been lawful, for the Provincial Government, by general or special order, to

(a) prohibit the grant of any kind of licenses throughout the province or in any areas;

(b) prescribe the maximum number of licenses of any kind which may be granted in any areas;

(c) prescribe the number of shops at which any intoxicant specified in such order or hemp may be sold in any area, the places where such shops may be situated, the days and hours during which such shops may or may not be kept open, the number of such shops in respect of which licenses for sale may be granted and the number of such shops which may be managed by the Excise Department;

(d) direct that no licenses of the kind specified in such order shall be granted without the previous approval of the Provincial Government;

(e) Prescribe the maximum quantity of any intoxicant or hemp which may be sold in any area or at any shop;

(f) prescribe the maximum number of toddy-producing trees for tapping which or for drawing toddy from which a license may be granted under section 14;

(g) prescribe the procedure to be followed before granting any license;

(h) direct that before granting licenses auctions may be held, tenders called for or offers received and that licenses shall be granted to persons whose bids, tenders or offers are accepted by the Collector;

(i) specify the persons or class of persons to whom licenses may or may not be granted, and in cases in which auctions are held under clause (h), the persons or class of persons who may or may not be permitted to offer bids at such auctions;

(j) direct that licenses of the kind specified in such order shall be granted to persons specified in such order; and

(k) issue such other instructions in any matter pertaining to the grant or otherwise of licenses under this Act as the Provincial Government may deem proper.

Explanation.—In this section the word 'shop' means any place where any intoxicant or hemp is sold."

10. *Amendments made by Bombay VI of 1940 and this Act to have effect in respect of dangerous drugs.*—The amendments made in the said Act by the Bombay Abkari (Amendment) Act, 1940, and by this Act shall have effect in respect of all intoxicants as defined in the said Act, including such intoxicants as are dangerous drugs.

11. *Savings*.—Nothing in this Act shall affect any suit or proceeding instituted prior to the date of the coming into force of this Act.

STATEMENT.

In the recent petition filed in the High Court, Bombay, under section 45 of the Specific Relief Act for the grant of a license for tapping and drawing toddy from toddy producing trees for domestic consumption, the High Court held that Government had no power to issue instructions to Abkari Officers as to the manner in which they should exercise their powers in this regard under the Bombay Abkari Act, 1878. The High Court also held that it is necessary for the Collector to consider each application for a license on its merits. It appears therefore that a refusal of a license by the Collector on the ground that the policy of Government is to enforce prohibition cannot be justified. Although this decision of the High Court was given in a case arising under section 14 of the Abkari Act, it might be held to apply equally in cases arising under section 16 of the Act, under which licenses for sale are granted. It has always been customary for Government to issue instructions to Collectors regarding the number and kind of licenses for sale which they should grant in any area. Under the decision given by the High Court such instructions may possibly be held to be invalid. It is, however, necessary for Government to have power to issue such instructions to Abkari Officers. It is also desirable to continue the present practice of disposing of licenses for sale by public auction. In order to preserve the present basis of excise administration both in prohibition and non-prohibition areas, an amendment of the Abkari Act is necessary. The present Act empowers Government to issue orders in regard to all matters pertaining to the granting of licenses and to revise the orders passed by Abkari Officers. It also provides that all Abkari Officers shall exercise their powers in accordance with such orders as Government may from time to time issue.

2. In order to validate the orders hitherto issued by Government, retrospective effect has been given to the provisors of section 9 of the Act which gives power to Government to issue orders in regard to the granting of licenses. A separate section has, however, been added to save suits instituted before the passing of this Act.

The Bombay Industrial Disputes (Second Amendment) Act, 1941.

The following Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, having been assented to by him on the 3rd November 1941 was published in the *Bombay Government Gazette*, Part IV, dated the 4th November 1941.

Bombay Act No. XVI of 1941.

An Act to amend the Bombay Industrial Disputes Act, 1938.

WHEREAS it is expedient to amend the Bombay Industrial Disputes Act, 1938, for the purposes hereinafter appearing;

And Whereas the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

Now, therefore, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

1. *Short title.*—This Act may be called the Bombay Industrial Disputes (Second Amendment) Act, 1941.

2. *Amendment of section 28 of Bombay XXV of 1938.*—In subsection (1) of section 28 of the Bombay Industrial Disputes Act, 1938, (hereinafter called the said Act), after the word "change" where it occurs for the first time, the following shall be inserted, namely:—

"not being a change the effecting of which has, for the purposes of the Factories Act, 1934, become lawful, by reason of a notification issued under section 8 thereof,".

3. *Amendment of section 73 of Bombay XXV of 1938.*—In subsection (1) of section 73 of the said Act, after the word "change" the following shall be inserted, namely:—

"not being a change the effecting of which has, for the purposes of the Factories Act, 1934, become lawful by reason of a notification issued under section 8 thereof,".

STATEMENT.

In view of the urgent necessity to stimulate production of textile goods in India both to ease the general price situation and to ensure adequate war supplies, Government has issued a notification under section 8 of the Factories Act, 1934, exempting spinning and weaving mills from the operation of section 34 of that Act. Before, however, spinning and weaving mills can take advantage of this exemption it would be obligatory on them under section 28 (1) of the Bombay Industrial Disputes Act, 1938, read with item 9 of Schedule II to the Act, to give a notice of change intimating their intention to make a change in the total weekly hours of work; and, if there is no agreement with the representatives of employees, to take the dispute into conciliation. To avoid the delay involved in this procedure, which might adversely affect production, it has been decided to make it unnecessary on the part of employers to give notice of such change. The present Act seeks to achieve this object.

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FINANCE DEPARTMENT.

Bombay Castle, 6th January 1941.

No. 251/33/27344-D.—In exercise of the powers conferred by sub-section (1) of section 92 of the **Government of India Act, 1935**, the Governor of Bombay is hereby pleased to direct that the following Acts shall apply to the partially excluded areas in the Province of Bombay, namely :—

(1) The Indian Income-tax (Amendment) Act, 1940 (XL of 1940), and

(2) The Excess Profits Tax (Amendment) Act, 1940 (XLII of 1940).

REVENUE DEPARTMENT.

Bombay Castle, 8th January 1941.

No. 4298/33 (a).—In exercise of the powers conferred by sections 10, 18, 37, 55 and 75 of the **Indian Stamp Act, 1899** (II of 1899), in its application to the Province of Bombay and of the functions of the Central Government entrusted to the Provincial Government under Government of India, Finance Department (Central Revenue)—Stamps, Notification No. 9, dated the 13th November 1937, the Government of Bombay is pleased to amend the Bombay Stamp Rules, 1939, published in Government Notification in the Revenue Department, No. 4298/33, dated the 29th June 1939, as follows, namely :—

In the said Rules—

(i) In rule 5, for the figures " 17 " the figures " 19 " shall be substituted ;

(ii) In rule 14, for the figures " 16 " the figures " 18 " shall be substituted.

Published in the *Bombay Government Gazette*, Part IV-B, dated the 9th January, 1941.

REVENUE DEPARTMENT.

Bombay Castle, 6th January 1941.

No. 1031/39.—In exercise of the powers conferred by section 29 of the **Bombay Finance Act, 1932** (Bombay II of 1932), the Government of Bombay is hereby pleased to make the following rule, namely :—

"If the annual letting value of any building or land in respect of which the Urban Immoveable Property Tax is levied is reduced by a competent authority, the municipality shall give refund of such portion of the tax as shall be equal to the difference between the amount of the tax levied and the amount of the tax leviable on the annual letting value so reduced."

Published in the *Bombay Government Gazette*, Part IV-B, dated the 16th January 1941.

GENERAL DEPARTMENT.

Bombay Castle, 7th January 1941.

No. 2989/33.—In exercise of the powers conferred by sub-section

(1) of sections 19 and 19-A of the **Bombay Prevention of Adulteration Act, 1925** (Bombay V of 1925) the Government of Bombay, after consideration with the Municipal Corporation of the City of Bombay, is pleased to amend the Bombay Prevention of Adulteration of Articles of Food Rules, published in Government Notification in the General Department, No. 9804, dated the 16th September 1938, as follows namely :—

(1) in clause (d) of rule 2—

(a) in sub-clause (xviii), after the word "liberica" the words "or coffee robusta" shall be added ; and

(b) after sub-clause (xxiii), the following new sub-clauses shall be inserted, namely :—

"(xxiv) 'Ice-cream' means an article of food mainly prepared from frozen cream or whole milk (not skimmed milk) and sugar (not saccharine).

"(xxv) 'Saffron' means dried stigmata and tops of styles of *Crocus Sativus*." ;

(2) in rule 6—

(a) in sub-rule (A), after sub-clause (xviii), the following sub-clause shall be inserted, namely :—

"(xix) Saffron which contains any foreign colouring matter or any other foreign matter, organic or inorganic, e. g. sugar, barium sulphate, chalk, gypsum and sodium sulphate", and

(b) in sub-rule (B), after sub-clause (x) the following sub-clauses shall be inserted, namely :—

"(xi) Saffron which (a) loses more than 12 per cent. of its weight when dried at 100°C. (212°F.) to constant weight or (b) contains more than 5 per cent. of Petroleum-ether extract.

"(xii) Baking powder which contains more than one per million parts of arsenic, lead, sodium or potassium aluminium sulphate or more than 10 per cent. of acid phosphates.

"(xiii) Any cereal, lentil or oil seeds containing more than 4 per cent. sand, gravel or any other foreign matter.",

(3) in rule 8—

(a) after sub-rule (B), the following new sub-rule shall be inserted, namely :—

"(BB) *Ices prepared from skimmed milk*.—No articles of food which resemble ice-cream but which are prepared from frozen skimmed milk (not whole milk shall be sold or offered, kept or exposed for sale except under the names of 'creamless ic-s' or 'skimmed milk ices."

(b) in sub-rule (C), after sub-clause (viii), the following new sub-clauses shall be inserted, namely :—

"(ix) No skimmed milk powder shall be sold or offered for sale unless the requirements of sub-rule (E) of this rule are fulfilled and unless a label, with the following warning, that is to say 'unfit for feeding infants' printed on it in capital letters not less than one-fourth of an inch in length, is also attached to the receptacle containing such powder".

(c) After sub-rule (C), the following new sub-rule (CC) shall be inserted, namely :—

"(CC) *Coffee and Chicory*.—No coffee or chicory shall be sold or offered, kept or exposed for sale unless the tins or receptacles containing the same conform to the conditions prescribed in sub-rule (E) of this rule"; and

(4) in Part III of Appendix "A"—

(a) the present entry " Saccharine " shall be numbered as No. 1 ; and

(b) after such entry No. 1; the following new entry shall be inserted, namely :—

" 2. Mineral oil containing rosin".

Published in the "*Bombay Government Gazette*", Part IV-A, dated the 23rd January, 1941.

HOME DEPARTMENT.

Bombay Castle, 13th January 1941.

No. 8918/3.—In exercise of the powers conferred by the proviso to sub-section (1) of section 3 of the **Provincial Insolvency Act, 1920** (V of 1920), the Government of Bombay is pleased to amend Government Notification in the Home Department, No. 358, dated the 12th January 1921, as follows :—

In the said Notification the following words, brackets and letter shall be deleted, namely :—

" (a) in the Bombay Presidency excluding the Scheduled Districts and excluding the City of Bombay ; and

(b) in the Scheduled District of Sind "

Published in the "*Bombay Government Gazette*", Part IV-A, dated the 30th January 1941.

HOME DEPARTMENT.

Bombay Castle, 23rd January 1941.

No. 8918/3-I.—In exercise of the powers conferred by sub-section (6) of section 401 of the **Code of Criminal Procedure, 1898** (V of 1898), the Government of Bombay is hereby pleased to cancel Government Notification in the Judicial Department No. 5287, dated the 19th July 1912.

Published in the *Bombay Government Gazette*, Part IV-B, dated the 30th January 1941.

REVENUE DEPARTMENT.

Bombay Castle, 28th January 1941.

No. 6670/28.—In exercise of the powers conferred by sub-section (3) of section 1 of the **Bombay Entertainments Duty Act, 1923** (Bombay I of 1923) the Government of Bombay is pleased to direct that the said Act shall come into operation in all the areas in the Bombay Suburban District other than those specified in Government Notification in the Revenue Department No. 6670/28, dated the 17th August 1939, with effect from the 1st day of March 1941.

Bombay Castle, 29th January 1941.

No. 8836/28.—In exercise of the powers conferred by section 11 of the **Bombay Finance Act, 1932** (Bombay II of 1932), the Government of Bombay is pleased to amend the **Bombay Electricity Duty Rules, 1932**, published in Government Notification in the Revenue Department, No. 8836/28, dated the 14th September 1932, as follows, namely :—

1. For clause (ii) of rule 6 of the said rules the following shall be substituted, namely :—

"(ii) checking the amount of energy consumed as mentioned in the returns and accounts by inspecting meters and meter cards".

2. After rule 9 of the said rules the following new rule shall be inserted, namely:—

"9A. *Special provisions for persons generating energy for their own use.*—(1) Every person who generates energy for his own use and who is liable to pay electricity duty under sub-section (4) of section 6 of the Act shall instal a meter in connection with the energy so generated and maintain it in proper order; and

(2) If an inspecting officer has reason to doubt the accuracy of any meter installed under sub-rule (1), he shall refer the matter to the Electric Inspector appointed under section 36 of the Indian Electricity Act, 1910. The Electric Inspector or any person deputed by him in this behalf may thereupon enter the premises of such person for the purpose of testing the meter."

3. In rule 13 of the said rules for the words "in respect of the supply of energy by a person other than a licensee" the words "to any person who generates energy for his own use and who is liable to pay electricity duty under sub-section (4) of section 6 of the Act and to payment of duty by such person for the energy so generated by him" shall be substituted.

4. In Form A appended to the said rules—

(a) in the headline, for the words "supplied for 'lights and fans' to the consumers" the words "supplied/consumed for 'lights and fans'" shall be substituted;•

(b) for the word "sold" where it occurs for the first time, the words "supplied/consumed" shall be substituted; and

(c) for the word "sold" where it occurs for the second time, the word "supplied" shall be substituted.

Published in the "*Bombay Government Gazette*", Part IV-A, dated the 13th February 1941.

FINANCE DEPARTMENT.

Bombay Castle, 10th February 1941.

No. 4885/33/2662-D.—In exercise of the powers conferred by sub-section (1) of section 92 of the **Government of India Act, 1935**, the Governor of Bombay is hereby pleased to direct that the following Acts and Ordinances shall apply to the partially excluded areas in the Province of Bombay, namely:—

Acts.

- (1) The Indian Coinage (Amendment) Act, 1940 (VI of 1940).
- (2) The Reserve Bank of India (Closing of Annual Accounts) Act, 1940 (VII of 1940).
- (3) The Reserve Bank of India (Amendment) Act, 1940 (IX of 1940).
- (4) The Reserve Bank of India (Second Amendment) Act, 1940 (XIII of 1940).
- (5) The Indian Finance Act, 1940 (XVI of 1940).
- (6) The Reserve Bank of India (Third Amendment) Act, 1940 (XXXVIII of 1940).
- (7) The Indian Finance (No. 2) Act, 1940.

Ordinances.

- (1) The Currency Ordinance, 1940 (Ordinance No. IV of 1940).
- (2) The Indian Coinage (Amendment) Ordinance, 1940 (Ordinance No. VI of 1940).
- (3) The Indian Coinage (Third Amendment) Ordinance, 1940 (Ordinance No. XIV of 1940).

Published in the "*Bombay Government Gazette*," Part IV-B, dated the 27th February 1941.

REVENUE DEPARTMENT.

Bombay Castle, 25th February 1941.

No. 2806.—In exercise of the powers conferred by sections 213 and 214 of the **Bombay Land Revenue Code, 1879** (Bombay V of 1879), the Government of Bombay is pleased to amend the Land Revenue Rules (1921), published in Government Notification in the Revenue Department No. B. 206, dated the 26th January 1921, as follows, namely:—

In column 2 of Article (8) in clause (a) of rule 142 of the said Rules, the following proviso shall be added, namely:—

"Provided that in the case of the Alienation Office Records a fee of Rs. 5 shall be charged for each rural searched, subject to a minimum of Rs. 5 for every such search."

Published in the "*Bombay Government Gazette*," Part IV-A, dated the 6th March 1941.

HOME DEPARTMENT.

Bombay Castle, 4th March 1941.

No. 8918/3.—In pursuance of Order XXI, rule 48, sub-rule (1), in the First Schedule to the **Code of Civil Procedure, 1908** (V of 1908), and in supersession of Judicial Department Notification No. 855, dated the 10th February 1911, in so far as it relates to public officers serving in connection with the affairs of the Province and servants of local authorities, the Government of Bombay is pleased to direct that notices of orders attaching the salaries or allowances of public officers and servants specified in column 1 of the Schedule hereto annexed shall be sent by Courts to the officers respectively specified against them in column 2 of the said Schedule:—

Schedule.

- | | |
|---|---|
| 1. Officers employed in the City of Bombay. | 1. (a) Accountant General, Bombay, in the case of Gazetted Officers.
(b) Heads of offices in the case of Non-Gazetted Officers. |
| 2. Officers employed in places other than the City of Bombay. | 2. (a) Treasury Officer of the District in the case of Gazetted Officers.
(b) Heads of offices in the case of Non-Gazetted Officers. |
| 3. Servants of Municipalities. | 3. (a) Chief Accountant in the case of the servants of the Bombay Municipality.
(b) Chief Officer or Secretary as the case may be in the case of servants of other Municipalities. |
| 4. Servants of Local Boards. | 4. The Local Fund Accountant. |

Published in the "*Bombay Government Gazette*," Part IV-A, dated the 20th March 1941.

LEGAL DEPARTMENT.

Bombay Castle, 17th March 1941.

No. 2367.—The Governor of Bombay is pleased to amend the **Rules for the Conduct of the Legal Affairs of Government** published in Government Notification, Legal Department, No. 8493, dated the 23rd August 1939, as follows, namely:—

In the said Rules—

(1) after rule 10, the following new rules 10A, 10B and 10C shall be inserted, namely:—

10A. *Establishment of the Government Pleaders.*—The Government Pleader, High Court, Bombay, has a regular permanent Pensionable establishment (*vide* Government Resolution, Legal Department, No. 1399, dated the 11th August 1921).

Each District Government Pleader in the mofussil has some clerks allotted for his work from the permanent District Judicial Establishment (*vide* Government Resolution, Finance Department, No. 3433, dated the 22nd September 1913).

10B. *Law Books and Official Publications.*—Under Government Resolution in the Legal Department, No. 2261, dated the 27th February 1939, as modified by Government Resolution, Legal Department, No. 3284 dated the 3rd April 1940, each of the Law Officers in the Province of Bombay is entitled to receive law books and official publications mentioned in the said Government Resolution.

10C. *Stationery.*—The Law Officers are also supplied with certain Government stationery (*vide* Government Circular No. 6497, dated the 4th December 1934, and Government Memorandum No. 3144, dated the 18th March 1939).

(2) after rule 23, the following new rule shall be inserted, namely:—

"23A. *Solicitor and Assistant Solicitor in the Legal Department are appointed as Crown Pleaders.*—By Government Notification in the Legal Department No. 3137, dated the 18th December 1939, the Solicitor and the Assistant Solicitor to Government in the Legal Department have been appointed to be Crown Pleaders for the purposes of Order XXVII of the First Schedule to the Code of Civil Procedure, 1908 (V of 1908), in relation to any suit by or against Government or against a public Officer in the service of Government in the Court of Small Causes at Bombay."

(3) after rule 25, the following new rule shall be inserted, namely:—

"25A. *Solicitors to Government are appointed as Crown Pleaders.*—By Government Resolution in the Legal Department No. 443-P, dated the 11th November 1938, the Solicitors to Government have been appointed under clause (c) of rule 8B of Order XXVII of the First Schedule to the Code of Civil Procedure, 1908 (V of 1908) as Crown Pleaders for the purposes of receiving processes against Government issued by the High Court of Bombay."

(4) in rule 26, after clause (c), the following new clause shall be inserted, namely:—

"(d) to engage counsel for the Crown in petitions before the Advocate General for a certificate under clause 26 of the Letters Patent."

(5) in rule 28, to sub-rule (2), the following proviso shall be added, namely:—

"Provided that if the hearing of any case extends over more than five hours on any day, additional fees shall be payable at the rate of Rs. 15 for every hour of hearing after the expiration of the first five hours."

(6) in rule 49, after sub-rule (5), the following new sub-rule shall be inserted, namely:—

"(6) Nothing in this rule shall apply to cases in which a district magistrate can make a report to the High Court under section 438 of the Code of Criminal Procedure, 1898 (V of 1898)."

(7) after rule 49, the following new rule shall be inserted, namely:—

"49A. *Procedure in cases in which the accused is a juvenile offender.*
—The procedure to be followed in any case in which the sentence passed on a juvenile offender seems to require further consideration is laid down in Government Resolutions, Home Department, No. 5210/3, dated the 17th June and 6th December 1938 and 21st August 1940."

(8) in rule 188—

(a) in sub-rule (1), the following words shall be added at the end, namely:—

"other than a suit relating to the Eastern Bengal, East Indian, Great Indian Peninsula or North-Western Railway or the State Railways Coal Department;" and

(b) after sub-rule (2), the following new sub-rule shall be inserted, namely:—

"(3) By Government of India, Home Department, Notification No. 204/37-Judicial, dated the 11th April 1940, issued in exercise of the powers conferred by rule 1, read with clause (a) of rule 8B of Order XXVII of the First Schedule to the Code of Civil Procedure, 1908 (V of 1908), the Central Government has authorised the officers specified in the said notification to sign and verify plaints or written statements in any suit by or against the Secretary of State or the Central Government other than a suit relating to the Eastern Bengal, East Indian, Great Indian Peninsula or North-Western Railway, or the State Railways Coal Department."

(9) in rule 192, the following new sub-rule shall be added, namely:—

"(3) The Solicitors to Government, the Public Prosecutor, Bombay, and the Government Pleader, High Court, Bombay, are given non-contract grants for service-postage."

HOME DEPARTMENT.

Bombay Castle, 10th March 1941.

No. 3867/4—In exercise of the powers conferred by sub-section (1) of section 92 of the **Government of India Act, 1935**, the Governor of Bombay is hereby pleased to direct that the **Code of Civil Procedure (Amendment) Act, 1940 (XXXIV of 1940)**, shall apply to all the partially excluded areas in the Province of Bombay, excepting the villages belonging to the following Mehwassi Chiefs, namely, (1) the Parvi of Kathi, (2) the Parvi of Nal, (3) the Parvi of Singpur, (4) the Walvi of Gaohali, (5) the Wassawa of Chikhli and (6) the Parvi of Nawalpur.

No. 2146/4.—In exercise of the powers conferred by the proviso to section 29 of the **Code of Civil Procedure, 1908 (V of 1908)**, and in super-session of Government Notification, Home Department, No. 2146/4-I, dated the 30th May 1940, the Government of Bombay is pleased to declare that the provisions of the said section 29 shall apply to all the Civil Courts situate in the State of Johore (Malay) with effect from the 30th day of May 1940.

Published in the "*Bombay Government Gazette*", Part IV-B., dated the 20th March 1941.

REVENUE DEPARTMENT.

Bombay Castle, 14th March 1941.

No. 1834/24—In exercise of the powers conferred by section 214 of the **Bombay Land Revenue Code, 1879 (Bombay V of 1879)**, and of all other powers enabling it in that behalf, the Government of Bombay is pleased to amend the **Bombay Land Revenue Rules, 1921**, published in

Government Notification in the Revenue Department, No. 205, dated the 26th January 1921, as follows, namely:—

After rule 47 of the said rules, the following new rule shall be inserted:—

"47-A. (1) The Collector may permit the construction or retention of a balcony or any other aerial projection over Government land on payment of an annual sum not exceeding 2 1/2 per cent. of the value of the land below the balcony or other aerial projection, as the case may be, subject to a minimum of 2 annas.

(2) The annual payment shall be revised at intervals of not less than 30 years."

(3) A license in Form JJ shall ordinarily be given for such purposes, subject to such additional conditions as the Collector may, with the previous sanction of the Commissioner, deem fit to impose."

2. In sub-rule (3) of rule 51 of the said rules, for the letters "JJ" the letters "JJJ" shall be substituted.

3. After Form "J" appended to the said rules, the following new form shall be inserted, namely:—

* * * * *

[For Form "JJ" see pages 185-187 of Part IV-B of the *Bombay Government Gazette*, 1941. *Editor*].

4. The existing Form "JJ" shall be relettered "JJJ".

Published in the *Bombay Government Gazette*, Part IV-A, dated the 27th March 1941.

POLITICAL AND SERVICES DEPARTMENT.

Bombay Castle, 20th March 1941.

No. 3351/34.—In exercise of the powers conferred by sub-section (1) of section 92 of the Government of India Act, 1935, the Governor of Bombay is hereby pleased to direct that the **Bombay Local Authorities Census Expenses Contribution Act, 1941** (Bombay 111 of 1941), shall apply to the partially excluded areas in the Province of Bombay.

GENERAL DEPARTMENT.

Bombay Castle, 25th March 1941.

No. 8369.—In exercise of the powers conferred by section 91 of the **Indian Lunacy Act, 1912** (IV of 1912), the Government of Bombay is pleased to amend the Bombay Lunacy Rules, 1921, published in Government Notification in the General Department No. 322, dated the 19th October 1921, as follows, namely:—

In clause (ii) of rule 18 of the said rules for the word "paupers" the word "lunatics" shall be substituted.

Published in the "*Bombay Government Gazette*", Part IV-A, dated the 31st March 1941.

FINANCE DEPARTMENT.

Bombay Castle, 28th March 1941.

No. 9326-A.—In exercise of the powers conferred by sub-section (1) of section 92 of the **Government of India Act, 1935**, the Governor of Bombay is hereby pleased to direct that the **Bombay Finance (Amendment) Act, 1941** (Bombay IV of 1941), shall apply to the partially excluded areas in the Province of Bombay.

REVENUE DEPARTMENT.

Bombay Castle, 31st March 1941.

No. 3791/33.—In exercise of the powers conferred by sub-section (1) of section 92 of the **Government of India Act, 1935**, the Governor of

Bombay is hereby pleased to direct that the **Bombay Agricultural Debtors Relief (Amendment) Act, 1941** (Bombay VI of 1941), shall apply to the partially excluded areas in the Province of Bombay.

No. 3791/33 (a).—In exercise of the powers conferred by sub-section (1) of section 92 of the Government of India Act, 1935, the Governor of Bombay is hereby pleased to direct that the **Bombay Small Holders Relief (Amendment) Act 1941** (Bombay VIII of 1941), shall apply to the partially excluded areas in the Province of Bombay.

Published in the "*Bombay Government Gazette*", Part IV-B., dated the 31st March 1941.

REVENUE DEPARTMENT.

Bombay Castle, 31st March 1941.

No. 1118/24.—In exercise of the powers conferred by section 27 of the **Bombay Tenancy Act, 1939** (Bombay XXIX of 1939), and all other powers enabling it in this behalf, the Government of Bombay is pleased to make the following rules:—

1. *Short title.*—These rules may be called the **Bombay Tenancy Rules**.

2. *Definitions.*—In these rules, unless there is anything repugnant in the subject or context—

(a) "Act" means the **Bombay Tenancy Act, 1939** (Bombay XXIX of 1939);

(b) "form" means a form appended to these rules;

(c) "section" means a section of the Act;

(d) words and expressions used but not defined in the rules shall have the meanings assigned to them in the Act.

3. *Manner of appraising the crop share payable as rent.*—(1) Whenever the rent payable by a tenant to his landlord consists of a share of the crop grown on the land held by the tenant, the quantity of the produce to be given to the landlord shall be ascertained in such manner as may be agreed upon between such tenant and his landlord. If there is no such agreement or if there is a dispute between the parties the landlord or the tenant may make an application to the Mamlatdar for determining the quantity of the produce to be given to the landlord. Such application shall be made before such date as the Collector may fix in this behalf.

(2) On receipt of an application under sub-rule (1), the Mamlatdar shall direct the circle inspector to inspect the crops on the spot as soon as practicable. The circle inspector shall give a reasonable notice both to the landlord and the tenant intimating the date and hour at which he shall inspect the crops. He shall summon two respectable residents of the village, hereinafter referred to as panchas, to assist him in determining the quantity of the produce to be given to the landlord and shall inspect the crops in the presence of such panchas.

(3) After the circle inspector has inspected the crops he shall record a brief memorandum of the relevant facts observed at such inspection. He shall then, after hearing the parties present and after taking the opinion of the panchas and recording a brief note thereof, make an award specifying the quantity of the produce which should be given to the landlord.

(4) If any tenant after the receipt of a notice from the circle inspector under sub-rule (2) without any sufficient cause reaps his crop before the

circle inspector has inspected it and determined the quantity of produce payable to the landlord, the circle inspector shall make the award under sub-rule (3) after drawing such inference against the tenant as he thinks fit.

(5) After the circle inspector has made the award under sub-rule (3) he shall immediately send a report to the Mamlatdar who shall pass an order confirming or modifying the award. Before passing such order, the Mamlatdar may, if he deems it necessary, make personal enquiries in the village.

(6) The award as confirmed or modified by the Mamlatdar under sub-rule (5) shall be final and conclusive.

(7) The record of the proceedings held by the circle inspector and orders passed thereon by the Mamlatdar for appraising the crop share shall be filed separately in an appraisement register and reasonable facilities for the inspection of such record shall be given to the landlord and to the tenant concerned at any time during office hours.

4. *Application for determination of reasonable rent.*—An application for the determination of reasonable rent under section 12 shall be in Form I.

5. *Court fees.*—Every application made to a Mamlatdar under the Act shall bear a Court-fee stamp of annas eight and every memorandum of appeal filed before a First Class Subordinate Judge shall bear a Court-fee stamp of rupees two.

6. *Application for payment of compensation.*—An application for payment of compensation under section 13 shall be in Form II or III as the case may be.

7. *Certificate under section 18 (3).*—(1) A certificate of transfer of a house site granted by a Mamlatdar to a tenant under section 18 shall be in Form IV. A copy of such certificate shall be sent as soon as conveniently may be by the Mamlatdar to the Sub-Registrar appointed under the Indian Registration Act, 1908, within the local limits of whose jurisdiction the house site in respect of which the certificate is granted is situated.

(2) Before a certificate of transfer of a house site is granted by the Mamlatdar, fees calculated on the value of such site at the rates specified in column 2 of the schedule appended to these rules shall be paid.

8. *Receipt for rent.*—A receipt given under section 22 for the amount of rent received in respect of any land shall be in Form V. The receipt shall be given in the regional language of the locality and the counterfoil of such receipt shall be signed by the tenant or his authorised agent in acknowledgment of his having received it. When a share of the produce is paid as rent, the kind and quantity of such produce shall be mentioned in the receipt. The quantity shall be expressed—

(i) in places in which Part II of the Bombay Weights and Measures Act, 1932, has come into force, in measures authorised to be used in such places under that Act; and

(ii) elsewhere, in measures notified by the Collector in this behalf.

9. *Application for possession of land or dwelling house.*—An application under section 24 for possession of any land or dwelling house shall be made in Form VI.

10. *Enquiry before giving possession of land or dwelling house.*—On receipt of an application under rule 9 the Mamlatdar shall issue notices

to the parties concerned to be present before him on the date and at the time appointed by him with their evidence. On the day so appointed or any other day to which the proceedings may be adjourned by the Mamlatdar, the Mamlatdar shall record the evidence of the parties and their witnesses, if any, present and after taking such further evidence as he may consider necessary, pass such orders on the application as he deems fit.

• *Schedule referred to in sub-rule (2) of Rule 7.*

Value determined.	Scale of fees.
When the value of the house-site does not exceed Rs. 1,000	2½ per cent. subject to a minimum of Rs. 2.
When the value of the house site exceeds Rs. 1,000 but does not exceed Rs. 5,000.	For the first Rs. 1,000, 2½ per cent. For the amount in excess of Rs. 1,000, 1 per cent.
When the value of the house site exceeds Rs. 5,000.	For the first Rs. 1,000, 2½ per cent. For the amount in excess of Rs. 1,000 and up to Rs. 5,000 1 per cent. For the amount in excess of Rs. 5,000, ½ per cent.

[For Forms I to VI, see pages 209 to 215 of Part IV-B of the *Bombay Government Gazette*, 1941]

No. 1118/24 (a).—The Government of Bombay is pleased—

(1) in exercise of the powers conferred by sub-section (2) of section 1 of the **Bombay Tenancy Act, 1939** (Bombay XXXIX of 1939), to extend the provisions of sections 2 to 30 of the said Act to the districts of Surat, Thana, West Khandesh and Dharwar and to the partially excluded areas in the Province of Bombay; and

(2) to direct under sub-section (3) of the said section 1 that the said provisions shall come into force in the said districts and in the said areas on 1st April 1941.

No. 1118/24(b).—In exercise of the powers conferred by sub-section (1) of section 92 of the Government of India Act, 1935, the Governor of Bombay is hereby pleased to direct that the **Bombay Tenancy (Amendment) Act, 1941** (Bombay VII of 1941), shall apply to the partially excluded areas in the Province of Bombay.

No. 1118/24 (c).—In exercise of the powers conferred by sub-section (5) of section 2 of the **Bombay Tenancy Act, 1939** (Bombay XXIX of 1939), the Government of Bombay is pleased to appoint awal-karkuns and extra awal-karkuns in all talukas to perform the duties of a Mamlatdar under the said Act.

Published in the "*Bombay Government Gazette*", Extraordinary, Part IV-A, dated the 1st April 1941.

FINANCE DEPARTMENT.

Bombay Castle, 1st April 1941.

No. 251/33/5663-D.—In exercise of the powers conferred by sub-section (1) of section 92 of the Government of India Act, 1935, the Governor of Bombay is hereby pleased to direct that the **Excess Profits Tax (Amendment) Act, 1941** (Act No. XI of 1941), shall apply to the partially excluded areas in the Province of Bombay.

Published in the "*Bombay Government Gazette*", Part IV-A., dated the 10th April 1941.

HOME DEPARTMENT (POLITICAL—WAR).

Bombay Castle, 8th April 1941.

No. S. D./W. 1075.—In exercise of the powers conferred by clause (b) of sub-section 5 of the **Defence of India Act, 1939**, (XXXV of 1939), and in supersession of Government Notification, Home Department (Political)-War, No. S. D./W. 1328, dated the 23rd December 1939, the Government of Bombay is hereby pleased to notify, for purposes of the said clause, (1) the whole of the Province of Bombay and (2) such of the provisions of the Indian Arms Act, 1878 (XI of 1878), the Indian Explosives Act, 1884 (IV of 1884), and of the Explosives Rules, 1941, as are specified in the Schedule hereto annexed:—

Schedule.

- | | |
|---|---|
| <p>(8) The Indian Arms Act, 1878 (XI of 1878).</p> <p>(2) The Indian Explosives Act, 1884 (IV of 1884).</p> <p>(3) The Indian Explosives Rules, 1940.</p> | <p>Provisions in the Act the contravention of which, or the doing of or omitting to do certain acts under which, is punishable under sections 19, 20 and 22.</p> <p>Provisions in the Act the doing of certain acts under which is punishable under sub-section (3) of section 6.</p> <p>The provisions in rules 6 to 9, 12 to 14, 17, 19, 21 to 24, 27 to 31, 34, 36, 37, 39, 45, 46, 51, 57, 60, 62 to 65, 71, 77, 79, 81, 94 and 102, the contravention of which, or the doing of or omitting to do certain acts under which, is punishable under rule 109 of the Rules.</p> |
|---|---|

Published in the "*Bombay Government Gazette*", Part IV-B, dated the 10th April 1941.

REVENUE DEPARTMENT.

Bombay Castle, 4th April 1941.

No. 3701/33.—In exercise of the powers conferred by section 79 of the **Bombay Agricultural Debtors Relief Act, 1939** (Bombay XXVIII of 1939), the Government of Bombay is pleased to delegate to the Collectors the powers exercisable by it under sub-section (1) of section 78 of the said Act.

No. 991/33 (a).—In exercise of the powers conferred by section 25 of the **Bombay Agricultural Produce Markets Act, 1939** (Bombay XXII of 1939), the Government of Bombay is pleased to delegate to the Collectors, the Prant Officers, the Mamlatdars and the Mahalkaris the power to grant licenses under sub-section (2) of section 4 of the said Act.

Published in the "*Bombay Government Gazette*", Part IV-A, dated the 17th April 1941.

POLITICAL AND SERVICES DEPARTMENT.

Bombay Castle, 8th April 1941.

No. 4320/34.—In exercise of the powers conferred by sub-section (1) of section 492 of the **Code of Criminal Procedure, 1898** (V of 1898), the Government of Bombay is pleased to appoint the Inspectors appointed by the Municipal Corporation of the City of Bombay under sub-section (1)

of section 25 of the Bombay Shops and Establishments Act, 1939 (Bombay XXIV of 1939), to be Public Prosecutors for the purpose of conducting prosecutions under the last mentioned Act.

Published in the "*Bombay Government Gazette*", Part IV-A, dated the 17th April 1941.

REVENUE DEPARTMENT.

Bombay Castle, 9th April 1941.

No. 1940/24.—In exercise of the powers conferred by section 5 of the **Indian Registration Act, 1908** (XVI of 1908), in its application to the Province of Bombay, the Government of Bombay is pleased to amend Government Notification in the Revenue Department, No. 1940/24, dated the 1st November 1940, as follows, namely:—

In the said notification:—

(a) in clause (2), for the words, figures and brackets "talukas or mahals formed under section 7 of the Bombay Land Revenue Code, 1879 (Bombay V of 1879), and" the words "talukas, mahals or villages" shall be substituted;

(b) after the words, "the said Second Schedule" in clause (2), the following *Explanation* shall be added, namely:—

"*Explanation.*—The words talukas and mahals as used in this notification shall mean talukas and mahals formed under section 7 of the Bombay Land Revenue Code, 1879 (Bombay V of 1879)."; and

(c) in the Second Schedule for the present heading of column 3, namely, "Talukas or Mahals formed under section 7 of the Bombay Land Revenue Code, 1879", the following shall be substituted, namely:—

"Talukas, Mahals or Villages."

Published in the "*Bombay Government Gazette*", Part IVA, dated the 1st May 1941.

HOME DEPARTMENT.

Bombay Castle, 16th April 1941.

No. 4534/4.—In exercise of the powers conferred by section 68 of the **Motor Vehicles Act, 1939** (IV of 1939), and all other powers enabling it in this behalf, the Government of Bombay is pleased to amend the Bombay Motor Vehicles Rules, 1940, published in Government Notification, Revenue Department, No. 2800/39-I, dated the 29th March 1940, as follows, namely:—

In rule 75 of the said rules for the words "Secretary to the Provincial Government in the Revenue Department" the words "Secretary to the Provincial Government in the Home Department" shall be substituted.

Bombay Castle, 22nd April 1941.

No. 3414/4.—In exercise of the powers conferred by sub-section (1) of section 92 of the **Government of India Act, 1935**, the Governor of Bombay is hereby pleased to direct that the Bombay Prevention of Gambling (Amendment) Act, 1941 (Bombay II of 1941), shall apply to the following areas in the Province of Bombay:—

(i) Chinchani, Asangaon and Bada-Pokharan in the Dahanu Taluka of the Thana District.

(ii) Umbergaon, Deheri, Nargol, Saronda and Khattal Wada in the Umbergaon Mahal of the Thana District.

(iii) Kinbaoli, Shenve and Thune in the Shabpur Taluka of the Thana District.

(iv) The village of Vivalvete in the Dhanu Taluka of the Thana District.

(v) The towns of Limbdi and Jhalod in the Jhalod Mahal of the Broach and Panch Mahals District.

(vi) The Municipal District of the town of Dobad in the Broach and Panch Mahals District.

(vii) The town of Shahada and its vicinity within a radius of three miles of municipal limits in the Shahada Taluka of the West Khandesh District.

(viii) The village of Kukurmunda in the Taloda Taluka of the West Khandesh District.

(ix) The area comprising the municipal limits of Taloda in the West Khandesh District.

(x) All the lands belonging to the town of Taloda in the Taluka of Taloda of the West Khandesh District.

(xi) The Municipal District of Nandurbar in the West Khandesh District.

(xii) The Revenue limits of Sarangkhedra village in the Shahada Taluka of the West Khandesh District.

REVENUE DEPARTMENT.

Bombay Castle, 24th April 1941.

No. 4891/39.—In exercise of the powers conferred by section 6 of the **Bombay Non-Agriculturists' Loans Act, 1928** (Bombay III of 1928), the Government of Bombay is pleased to amend the **Bombay Non-Agriculturists' Loans Rules, 1930** (hereinafter referred to as the "said rules"), published in Government Notification in the Finance Department, No. 6004-E, dated the 1st December 1930, as follows, namely:—

1. In rule 9 of the said rules—

(1) before the words "No loan shall be granted" the words "Except as otherwise directed by Government" shall be inserted; and

(2) for the word "securities" the word "sureties" shall be substituted.

Published in the "*Bombay Government Gazette*", Part IV-A, dated the 8th May 1941.

HOME DEPARTMENT.

Bombay Castle, 25th April 1941.

No. 7896/3-III.—In exercise of the powers conferred by sections 21, 22A and 23 of the **Bombay Civil Courts Act, 1869** (XIV of 1869), and in modification of Government Notification in the Judicial Department, dated the 26th May 1869, and in supersession of Government Notifications in the Home Department, No. 3707/2-VI, dated the 9th January 1932, No. 7896/3-II, dated the 22nd October 1938, and No. 7896/3-II, dated the 8th August 1939, the Government of Bombay is pleased to direct that, with effect from the 1st day of May 1941.

(1) There shall be a Court of the Subordinate Judge of Vengurla in the Ratnagiri District;

(2) The villages of the Vengurla Petta specified in Schedule A appended hereto shall form the local limits of the ordinary jurisdiction of the said Court of the Subordinate Judge of Vengurla;

(3) The Subordinate Judge of Vengurla shall hold the Court at Vengurla;

(4) The villages specified in the first column of Schedule B appended hereto shall be included in the local limits of the ordinary jurisdiction of the Courts of the Subordinate Judges specified against them in the second column of the said Schedule B.

SCHEDULE A.

- | | | |
|---------------------|---------------|---------------|
| 1. Bandar Vengurla. | 6. Khanoli. | 11. Dhamapur. |
| 2. Parula. | 7. Dabboli. | 12. Kalsa. |
| 3. Kochara. | 8. Arawali. | 13. Parad. |
| 4. Mhapan. | 9. Shirawada. | 14. Varad. |
| 5. Kelus. | 10. Redi. | 15. Talgaon. |

SCHEDULE B.

Names of villages. 1	Names of Courts. 2
1. Vadi Tondavli	...
2. Mauje Vayagani	...
3. Peth Bhagwantgad	...
4. Thikan Kalambhati	...
5. Thikan Malik Soil	...
6. Mauje Bandivde Budruk	...
7. Mauje Bandivde Khurd	...
8. Thikan Sheri Bhagwantgad	...
9. Juva Anjanocha	...
10. Juva Dhanji	...
11. Mauje Koil	...
12. Juva Koil	...
13. Mauje Maldi	...
14. Mauje Adavli	...
15. Mauje Suktalen	...
16. Mauje Shraavan	Malvan.
17. Mauje Belen Budruk	...
18. Thikan Sheri Ramgad	...
19. Mauje Gothane	...
20. Mauje Gaudvadi	...
21. Kasba Acharen	...
22. Thikan An Savant	...
23. Thikan Bag Jambdul	...
24. Mauje Chindar	...
25. Mauje Trimbak	...
26. Thikan Ram Savant	...
27. Mauje Palsamb	...
28. Mauje Kudopi	...
29. Mauje Budhavalen	...
30. Mauje Math Budruk	...
31. Peth Ramgad	...
<i>Tarf Kharepatan.</i>	
1. Kasba Kharepatan	...
2. Mauje Korla	...
3. Mauje Dhalavli	...
4. Mauje Manche	...
5. Mauje Motat	...
6. Mauje Waghotane	...
7. Mauje Wygani	...

Names of villages.	Names of Courts.
1	2
8. Mauje Kunkavane	...
9. Mauje Undil	...
10. Mauje Burbownde	...
11. Mauje Darun	...
12. Mauje Talera	Deogad.
13. Mauje Salasde	...
14. Mauje Wargam	...
15. Mauje Nadguve	...
16. Mauje Chincholi	...
17. Mauje Borle	...
18. Mauje Sherpe	...
19. Mauje Shidowne	...
20. Mauje Ujvli	...
21. Mauje Kasarde	...
22. Mauje Panagaon	...
23. Math Kurad Tarf Kharepatan	...
24. Kirgowne	...

Published in the "*Bombay Government Gazette*", Extraordinary, Part IV-A, dated the 10th May 1941.

FINANCE DEPARTMENT.

Bombay Castle, 10th May 1941.

No. 4885/33-A.—In exercise of the powers conferred by sub-section (1) of section 92 of the **Government of India Act, 1935**, the Governor of Bombay is hereby pleased to direct that the following Act and Ordinance shall apply to the partially excluded areas in the Province of Bombay, namely:—

(1) The Indian Finance Act, 1941 (Act No. VII of 1941).

(2) The Reserve Bank of India (Amendment) Ordinance, 1941 (Ordinance No. III of 1941).

Published in the "*Bombay Government Gazette*", Part IV-B, dated the 15th May 1941.

HOME DEPARTMENT.

Bombay Castle, 7th May 1941.

No. 4567/4.—In exercise of the powers conferred by section 1 of the **Bombay Prevention of Gambling Act, 1887** (IV of 1887), the Governor of Bombay is pleased to extend all the provisions of that Act, as amended from time to time, to the following local area in the Dharwar District:—

The village of Hulgur in Shiggaon Taluka.

Bombay Castle, 8th May 1941.

No. 4568/4.—In exercise of the powers conferred by section 1 of the **Bombay Prevention of Gambling Act, 1887** (IV of 1887), the Governor of Bombay is pleased to extend all the provisions of that Act, as amended from time to time, to the following local area in the Dharwar District:—

The village of Hirekerur in Kod Taluka.

Published in the "*Bombay Government Gazette*", Part IV-A, dated the 22nd May 1941.

HOME DEPARTMENT.

Bombay Castle, 9th May 1941.

No. 4712/4-II.—In exercise of the powers conferred by section 73 of the **Motor Vehicles Act, 1939** (IV of 1939), the Government of Bombay is pleased to authorise Police Officers, not below the rank of a Sergeant or Sub-Inspector, to exercise within their respective jurisdictions, all the powers under the said section 73.

Bombay Castle, 16th May 1941.

No. 4719/4.—In exercise of the powers conferred by sub-section (1) of section 92 of the **Code of Civil Procedure, 1908** (V of 1908), the Government of Bombay is pleased to empower the Court of the First Class Subordinate Judge of Nasik, as the Court in which suits of the nature described in the sub-section may be instituted and which may dispose of such suits, provided that the whole or any part of the subject matter of the trust to which the suit relates is situate within the local limits of the jurisdiction of the said Court.

REVENUE DEPARTMENT.

Bombay Castle, 16th May 1941.

No. 2217/33.—In exercise of the powers conferred by section 11 of the **Mussalman Wakf Act, 1923** (XLII of 1923), the Government of Bombay is pleased to amend the Bombay Mussalman Wakf Rules, 1936, published in Government Notification, Revenue Department, No. 2217/33, dated the 4th January 1937, as follows, namely:—

Rule 12 of the said rules shall be renumbered as sub-rule (1) of the said rule and after sub-rule (1) so renumbered, the following shall be inserted as sub-rule (2), namely:—

"(2) (a) The Court holding an enquiry under section 6-C may permit the District Wakf Committee or the Collector or any officer appointed by him in this behalf to appear before and assist the Court at any such enquiry and to produce such materials relating to the enquiry as it or he may possess. Such appearance may be made in person or by a recognized agent or by a pleader duly authorized in this behalf; provided that the Wakf Committee may also appear by one or more of its members authorized by it in this behalf.

(b) The costs of any appearance made under clause (a) of this sub-rule shall be deemed to be the costs of the enquiry."

Published in the "*Bombay Government Gazette*", Part IV-A, dated the 5th June 1941.

HOME DEPARTMENT.

Bombay Castle, 2nd June 1941.

No. 4632/4-II.—In exercise of the powers conferred by sub-section (1) of section 92 of the **Government of India Act, 1935**, the Governor of Bombay is hereby pleased to direct that the Bombay (Emergency Powers) Whipping Act, 1941 (Bombay XI of 1941), shall apply to the partially excluded areas in the Province of Bombay.

Published in the "*Bombay Government Gazette*", Part IV-B, dated the 12th June 1941.

GENERAL DEPARTMENT.

Bombay Castle, 9th June 1941.

No. 2852/33.—In exercise of the powers conferred by clause (b) of

sub-section (2) of section 2 of the **Bombay District Vaccination Act, 1892** (Bombay I of 1892), the Government of Bombay is pleased to direct that the provisions of sections 1 to 32 of the said Act shall come into force within the limits of the municipal area of Pen with effect from 16th June 1941..

* Published in the "*Bombay Government Gazette*", Extraordinary,
Part IV-B, dated the 14th June 1941.

POLITICAL AND SERVICES DEPARTMENT.

Bombay Castle, 14th June 1941.

No. 4599/34.—In exercise of the powers conferred by section 2 of the **Bombay Industrial Disputes Act, 1938** (Bombay XXV of 1938), the Government of Bombay is pleased to direct that with effect from the date of this notification the provisions of section 49A of the said Act shall extend to and come into force in the whole of the Province of Bombay and shall apply to the industries specified in Column 1 of the Schedule appended hereto in the areas specified in Column 2 of the said Schedule.

SCHEDULE.

Industries	Areas.
1	2
(a) All concerns, using power and employing twenty or more workers, which are engaged in cotton spinning; (b) all concerns, using power and employing twenty or more workers, which are engaged in cotton weaving with or without an admixture of silk, rayon, artificial silk or one or more of these; (c) all concerns, using power and employing twenty or more workers, which are engaged in cotton knitting or the manufacture of cotton hosiery with or without an admixture of silk, rayon, artificial silk or one or more of these; (d) all mechanics' shops attached to, and all dyeing, bleaching and printing departments in any of the concerns falling under clause (a), (b) or (c).	Any part of the Province of Bombay.
II	
(e) All concerns, using power and employing twenty or more workers, which are engaged in waste silk spinning; (f) all concerns, using power and employing twenty or more workers, which are engaged in silk, artificial silk or rayon weaving with or without an admixture of cotton or staple fibre and in all processes incidental or supplemental thereto; (g) all mechanics' shops attached to, and all dyeing, bleaching and printing departments in any of the concerns falling under the above clause (e) or (f).	The City of Bombay.

- (h) All concerns, using power and employing twenty or more workers, which are engaged in spinning wool and/or worsted and in all processes incidental or supplemental thereto;
- (i) all concerns, using power and employing twenty or more workers, which are engaged in wolle and /or worsted weaving and in all the processes incidental thereto with or without an admixture of cotton, silk, rayon artificial silk or any other artificial or natural fibres or one or more of these provided such concerns use more than 50 per cent. of wool and/or worsted;
- (j) all concerns, using power and employing twenty or more workers, which are engaged in wool and/or worsted knitting or the manufacture of wool and/or worsted hosiery with or without an admixture of cotton, silk, rayon, artificial silk or any other artificial or natural fibres or one or more of these provided such concerns use more than fifty per cent. of wool and/or worsted;
- (k) all mechanics' shops attached to, and all dyeing, bleaching and printing departments in any of the concerns falling under clause (h), (i) or (j).

The City of Bombay
and the Thana
Municipal Borough.

Published in the "*Bombay Government Gazette*", Part IV-C, dated the 19th June 1941.

POLITICAL AND SERVICES DEPARTMENT.

Bombay Castle, 14th June 1941.

No. 4599/34.—In exercise of the powers conferred by sub-section (1) of section 92 of the **Government of India Act, 1935**, the Governor of Bombay is hereby pleased to direct that the Bombay Industrial Disputes Act, 1938 (XXV of 1938), as amended by the Bombay Industrial Disputes (Amendment) Act, 1941 (Bombay X of 1941), shall apply to the partially excluded areas in the Province of Bombay.

Published in the "*Bombay Government Gazette*", Part IV-A, dated the 26th June 1941.

HOME DEPARTMENT.

Bombay Castle, 23rd June 1941.

No. 3828/4.—In exercise of the powers conferred by sub-section (1) of section 92 of the **Government of India Act, 1935**, the Governor of Bombay is hereby pleased to direct that the Code of Criminal Procedure (Bombay Amendment) Act, 1941 (Bombay XII of 1941), shall apply to the partially excluded areas in the Province of Bombay.

Published in the "*Bombay Government Gazette*", Part IV-B, dated the 26th June 1941.

BOMBAY REVENUE TRIBUNAL.

Bombay Castle, 23rd June 1941.

No. 4877/33.—In exercise of the powers conferred by section 13 of the **Bombay Revenue Tribunal Act, 1939** (Bombay XII of 1939), and with the previous sanction of the Government of Bombay, the Bombay Revenue Tribunal is pleased to amend the Bombay Revenue Tribunal Records, Inspection, Search and Copies Regulations published in the Revenue Tribunal's Notification No. 4877/33, dated 4th November 1940, as follows, namely:—

In the said Regulations, for the "Note" below Regulation 11 the following Note shall be substituted, namely:—

"*Note.*—Before a copy of any document is furnished to an applicant under these Regulations, the stamp duty payable under Article 24 in the First Schedule to the Indian Stamp Act, 1899 (11 of 1899), shall be paid by him."

Published in the "*Bombay Government Gazette*", Part IV-A, dated the 3rd July 1941.

HOME DEPARTMENT.

Bombay Castle, 23rd June 1941.

No. 1161/4.—In exercise of the powers conferred by sub-section (1) of section 92 of the **Government of India Act, 1935**, the Governor of Bombay is pleased to direct that the Code of Criminal Procedure (Amendment) Act, 1940 (XXXV of 1940), shall apply to the partially excluded areas in the Province of Bombay.

Published in the "*Bombay Government Gazette*", Part IV-B, dated the 3rd July 1941.

REVENUE DEPARTMENT.

Bombay Castle, 28th June 1941.

No. 991/33.—In exercise of the powers conferred by section 26 of the **Bombay Agricultural Produce Markets Act, 1939** (Bombay XXII of 1939), the Government of Bombay is pleased to make the following rules:—

PART I.

PRELIMINARY.

1. *Short title*.—These rules may be called the **Bombay Agricultural Produce Markets Rules, 1941**.

2. *Definitions*.—In these rules, unless there is anything repugnant in the subject or context,—

(i) "Act" means the **Bombay Agricultural Produce Markets Act, 1939**.

(ii) "Authorised weights, measures or weighing or measuring instruments" mean such weights, measures or weighing or measuring instruments as are permitted to be used under the provisions of the **Bombay Weights and Measures Act, 1932**.

(iii) "Broker" means an agent whose ordinary course of business is to negotiate and make contracts on payment of commission for the purchase or sale of agricultural produce on behalf of his principal, but does not include the servant of such principal whether engaged in negotiating or making such contracts.

(iv) "Financial year" means the year commencing on the first day of April.

- (v) "Form" means a form appended to these rules—
- (vi) "General commission agent" means a person who on behalf of another person and in consideration of "adat" or commission makes or offers to make, a purchase or sale of agricultural produce or does or, offers to do anything necessary for completing and carrying out such purchase or sale.
- (vii) "Government" means the Government of Bombay.
- (viii) "Market" includes a market proper and market yard.
- (ix) "Market proper" means the area declared to be a market proper under clause (b) of rule 51.
- (x) "Market yard" means any area declared to be a market yard under clause (a) of rule 51.
- (xi) "Organization of agriculturists" means the co-operative societies recognised to be organization of agriculturists under rule 3.
- (xii) "Revenue year" means the year commencing on the first day of August.
- (xiii) "Secretary" means the person appointed as the Secretary of the Market Committee under these rules or any officer or servant appointed for the time being to perform the duties of the Secretary.
- (xiv) "Section" means a section of the Act.
- (xv) "Surveyor" means a person whose business it is to survey a consignment of agricultural produce for sale in regard to quality, refraction, adulteration and such other purposes.
- (xvi) "Trader" means a person buying or selling agricultural produce as a principal or as the duly authorised agent of one or more firms.
- (xvii) "Unauthorised trade allowance" means a trade allowance not prescribed by these rules or bye-laws.
- (xviii) Words and expressions used in the Act and not defined in these rules shall have the meanings assigned to them in the Act.

3. *Organizations of agriculturists.*—All rural co-operative credit societies, better farming, better living and joint farming co-operative societies and taluka development associations registered under the Bombay Co-operative Societies Act, 1925, and operating in a market area shall, for the purposes of section 6, be deemed to be the organizations of agriculturists for the said area.

Exception.—Co-operative multi-purpose societies and co-operative sale societies doing business of buying or selling agricultural produce, with or without commission, shall not be deemed to be organizations of agriculturists for the purposes of the said section.

PART II.

CONSTITUTION OF MARKET COMMITTEES AND ELECTION.

4. *Number of members of a market committee.*—Except in the case of market committees deemed to have been constituted under section 31, every market committee shall, subject to the provisions of sub-section (1) of section 6, consist of such number of members as may be determined by the Collector.

5. *Constitution of the first market committee.*—Except in the case of any market area for which a market committee is deemed to have been constituted under section 31, the Collector, on the declaration of any area as a market area under sub-section (1) of section 4, shall in consultation with the Director, nominate persons to constitute the market committee for the said area.

6. *Disqualifications for memberships.*—A person shall be disqualified for being chosen as a member of a market committee—

(1) if his name is not entered on the voters' list prepared and maintained under these rules;

(2) if he has not attained the age of 21;

(3) if he has been adjudged by a competent court to be of unsound mind;

(4) if he is an undischarged insolvent;

(5) if he has been convicted and sentenced by a court, within or without British India, to imprisonment for an offence punishable with imprisonment for a term exceeding six months unless such disqualification has been removed by an order passed by Government;

(6) if he is a servant of the market committee or holds a license from such committee as a broker, weighman, measurer or surveyor;

(7) if he has directly or indirectly any share or interest in any contract or employment with or on behalf of or under the market committee;

Provided that a person shall not be chosen as a member representing the traders' constituency if he does not ordinarily reside within 10 miles of the market yard and if he has not been registered under rule 65.

Explanation.—For the purposes of this rule a person shall be deemed to be ordinarily residing within 10 miles of the market yard, if he resides in such yard for not less than 180 days in a calendar year.

7. *Constituencies.*—For the purpose of electing members to a market committee in every market area, the following shall be the constituencies:—

(1) Agriculturists' constituency.

(2) Traders' Constituency.

(3) Local Authorities' constituency.

8 *Persons qualified to vote*—

I. Agriculturists' Constituency.

The following persons shall be qualified to vote in an agriculturists' constituency:—

(a) all members of the organizations of agriculturists operating in the market area;

(b) where no such organisations exist, the following agriculturists ordinarily residing within the market area, namely:—

(i) holders of land whether unalienated or alienated, assessed or assessable jointly or severally at not less than Rs. 8, at the end of the revenue year immediately preceding the financial year in which the election is held, or

(ii) tenants of unalienated lands assessed at not less than Rs. 8 at the end of the revenue year immediately preceding the financial year in which the election is held, or

(iii) tenants of alienated lands assessed or assessable at not less than Rs. 8 at the end of the revenue year immediately preceding the financial year in which the election is held.

Explanations.—(1) A person shall be deemed to reside ordinarily within any area if he—

(a) has actually resided within the area for an aggregate period of not less than 180 days during the calendar year preceding that in which the lists of voters for the time being under preparation for such area are provisionally published under sub-rule (3) of rule 10; or

(b) has maintained within the area for an aggregate period of not less than 180 days during the calendar year preceding that in which the lists of voters for the time being under preparation for such area

are provisionally published under sub-rule (3) of rule 10, a dwelling for himself in charge of his dependents or servants and has visited such dwelling during the year first mentioned in connection with his business in the area.

(2) If any question arises whether any person is or is not an agriculturist for the purposes of this rule, the Collector shall decide it and his decision shall be final.

(3) No person shall be entitled to have his name entered in the list of voters for more than one market area or as member of more than one organization of agriculturists.

II. Traders' Constituency.

The following persons shall be qualified to vote in a traders' constituency:—

(a) all persons licensed under sub-section (2) of section 4 in the market area before the date fixed in this behalf by the Collector;

(b) all traders approved by the market committee and registered as such under rule 65 before the date fixed in this behalf by the Collector.

III. Local Authorities Constituencies.

(a) In a case in which the market area is wholly within the limits of a local authority, the members of such local authority shall be elected as provided by section 6 (1) (iii) (a) to (c);

(b) In a case where the market area is within the limits of more than one local authority, a person elected by each of such local authorities shall be qualified to vote for election of a representative of such local authorities on the market committee.

9. *Names of persons qualified to vote to be reported to Collector or market committee, as the case may be.*—(1) Every organization of agriculturists and every local authority selecting a person qualified to vote under rule 8-III (b) shall report the names of its members qualified to vote to the Collector on or before the date fixed in this behalf by the Collector.

(2) Every firm, corporation or co-operative society qualified to vote in a traders' constituency under these rules shall nominate a person to vote on its behalf and intimate in writing the name of the person, so nominated, to the market committee or its authorised agent, not later than the date fixed in this behalf by the Collector.

10. *Voters List.*—(1) The Collector or any other person authorised by him in this behalf hereinafter in this rule referred to as such person shall cause to be prepared separate lists of voters qualified to vote for the Agriculturists' Constituency, Traders' Constituency and the Local Authorities' Constituency in cases in which there are more than one local authority within a market area. The list shall be revised for each technical election. He shall for this purpose call upon the market committee to prepare from market registers and to furnish to him the names of all persons qualified to vote in the traders' constituency representing the traders' electorate. In market areas which are within the limits of more than one local authority, the Collector or such person shall also call upon each of the local authorities concerned to intimate to him the names of the persons qualified to vote in the local authorities' constituency. He shall also call upon the organizations of agriculturists within the market area to intimate to him the names of persons qualified to vote under the agriculturists' constituency and where no organisation of agriculturists exist, he shall cause to be prepared a list of persons qualified to vote under rule 8-I (b).

(2) Every list of voters prepared under sub-rule (1) shall show the full name, residence and serial number of the voter and the nature of his qualification.

(3) Every such list shall be published provisionally in such manner as the Collector or such person may deem fit.

(4) When publishing the list provisionally the Collector or such person shall fix a date, not later than one month from the date of publication of the lists before which any application for the inclusion, exclusion or correction of any entry shall reach him. The Collector or such person or any other officer appointed by the Collector for the purpose shall hear and decide any applications and objections received before the date so fixed and the decision of the Collector, such person or the other officer relating to such application or objection shall be final.

(5) The Collector or such person shall cause the lists to be amended in accordance with the orders passed under sub-rule (4) and shall cause them to be republished finally in the regional language of the market area in such manner as he may deem fit.

(6) Copies of such final lists shall be made available for inspection and sale in whole or in part in the office of the Collector or such person.

(7) The final lists republished under sub-rule (5) shall remain in force and continue in operation as the list of voters for the purpose of any bye-election.

(8) Notwithstanding anything contained in the above sub-rules, the provisions of sub-rules (3) to (7) shall not apply to the voters' list of the local authority constituency in cases in which there are more than one local authority for a market area.

11. *Calling upon the constituencies to elect.*—As soon as may be after the final publication of lists of voters under sub-rule (5) of rule 10 the Collector shall call upon the constituencies to elect their representatives to the market committee on a date fixed by him in this behalf.

12. *Notice to elect.*—Not less than 42 days before the date fixed for the election, the Collector shall publish in the regional language of the market area and in such other languages as he may deem necessary, a notice in a newspaper circulating in the market area and post copies of such notice in village chavdis and other conspicuous places in the village included in that area stating—

(a) the number of persons to be elected;

(b) the date on which, the place at which and the hours between which nomination papers shall be presented to him or to any other person authorised by him in this behalf, which date shall not be less than 14 days from the date of the publication of notice;

(c) the date on which scrutiny of nomination papers shall be made;

(d) the date on which and the place or places at which the votes of the electors shall be taken, if there be a poll, and the hours during which the poll shall be taken; and

(e) the day on which and the place and hour at which the votes shall be counted.

13. *Nominations.*—(1) Each candidate shall, on the date fixed under clause (b) of rule 12 deliver to the Collector or to any other person authorised by him in this behalf, a nomination paper in Form I.

(2) Every nomination paper shall be signed by two persons qualified to vote as proposer and seconder and the candidate shall sign a declaration on it expressing his willingness to stand for election.

(3) The same person may sign, as proposer or seconder, as many nomination papers as there are vacancies to be filled. Each candidate shall be nominated by a separate nomination paper.

(4) The Collector or the person authorised by him in his behalf shall, on receiving a nomination paper enter in the nomination paper its serial number and shall endorse thereon the date on which and the hour at which the nomination paper was delivered to him.

(5) Where any person has signed whether as proposer or seconder a larger number of nomination papers than there are vacancies to be filled, those of the papers so signed which have been first received upto the number of vacancies to be filled shall be deemed to be valid.

(6) Nomination papers received after the date and the time appointed under clause (b) of rule 12 shall be rejected.

14. *Verification of nominations.*—On the presentation of a nomination paper, the Collector or the person authorised by him under rule 13 shall verify the names of the proposer, seconder and the candidate with the list of voters.

15. *Publication of list of nominations.*—As soon as may be after the date fixed for the presentation of nomination papers, the Collector or the person authorised by him under rule 13 shall publish a list in Form II of all nominations received with a notice that the nomination papers shall be scrutinized on the date appointed under clause (c) of rule 12 at the place and hour specified in the notice. The list of nominations and the notice shall be published in such manner as the Collector or the person authorised as aforesaid may deem fit.

16. *Scrutiny of nominations.*—On the date fixed for the scrutiny of nominations under clause (c) of rule 12, the candidates, one proposer and one seconder of each candidate and one other person duly authorised in writing by each candidate may attend at such time and place as the Collector or the person authorised by him under rule 13 may appoint, and the Collector or the person so authorised shall give them all reasonable facilities for examining the nomination papers of all candidates.

17. *Disposal of objections and rejection of nomination.*—(1) The Collector or the person authorised by him under rule 13 shall then examine the nomination papers and shall decide all objections which may be made at the time to any nomination and may, either on such objection or on his own motion after such summary enquiry, if any, as he thinks necessary, reject any nomination on any of the following grounds:—

(i) that the candidate, the proposer or the seconder is a person whose name is not registered on the list of voters, or

(ii) that the nomination has not been made in the manner prescribed under these rules.

(2) The Collector or the person authorised as aforesaid shall endorse on each nomination paper his decision accepting or rejecting the same and, if the nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection. The scrutiny shall be completed on the day fixed in this behalf under clause (c) of rule 12 and shall not be adjourned on any ground.

18. *Withdrawal of candidature.*—(1) Any candidate may withdraw his candidature by notice in writing subscribed by him and delivered either in person by the candidate himself or by any of his proposers or seconders to the Collector or to the person authorised by him under

rule 13, within three days of the date succeeding that fixed for the scrutiny of nominations under clause (c) of rule 12.

(2) On completion of the scrutiny of nominations and after the expiry of the period within which candidature may be withdrawn under sub-rule (1), the Collector or the person authorised by him as aforesaid shall prepare a list of persons, whose nominations are in order and who have not withdrawn their candidature, in Form III, and cause it to be affixed in some conspicuous place in his office, in the taluka office concerned and in the office of the market committee, not less than seven days before the date fixed for the election.

19. *Procedure at election.*—(1) If the number of candidates who are duly nominated and who have not withdrawn their candidature in the manner and within the time specified in sub-rule (1) of rule 18 exceeds that of the vacancies to be filled, a poll shall be taken.

(2) If the number of such candidates is equal to the number of vacancies, all such candidates shall be declared to be duly elected.

(3) If the number of such candidates is less than the number of vacancies, all such candidates shall be declared to be duly elected, and the Collector or the person authorised by him under rule 13 shall call upon the constituency to fill the remaining vacancy or vacancies, as the case may be, within such time as may be specified.

20. *Arrangements for the holding of election, etc.*—The Collector or the person authorised by him in this behalf shall make such arrangements as may be necessary for the holding and supervision of the election, for the scrutiny of the ballot papers and for declaration of the results of the election.

21. *Voting.*—Every voter shall have as many votes as there are members to be elected on behalf of the constituency and may give all his votes to one candidate or may distribute them among the candidates as he chooses:

Provided that the total number of votes given by him shall not exceed the total number of members to be elected for the constituency.

22. *Death of candidate before poll.*—If after the taking of a poll has become necessary and before the poll is taken a candidate who has been duly nominated dies, the Collector shall, upon being satisfied of the fact of the death of the candidate, countermand the poll and the election proceedings shall be commenced anew in all respects as if for a new election:

Provided that no fresh nomination shall be necessary in the case of a candidate who stood validly nominated at the time of the countermanding of the poll.

23. *Intimation to the Collector of the name of the representative of a local authority.*—In a case in which the market area is wholly within the limits of a local authority, the local authority shall intimate in writing to the Collector the name of the person elected as its representative under clause (iii) of sub-section (1) of section 6 before a date fixed by the Collector in this behalf.

24. *Filling in casual vacancies in the market committee.*—The procedure for holding a bye-election for purposes of sub-section (4) of section 6 shall be the same as that for a general election, provided that the preparation and publication of fresh lists of voters shall not be necessary.

25. *Publication of the names of elected and nominated members of the Committee.*—The names of elected and nominated members of the market committee shall be published in the Official Gazette as soon as conveniently may be after their election and nomination.

26. *Person disqualified to cease to be member.*—No person shall continue to be a member of the market committee if at any time after his nomination or election, as the case may be, he becomes subject to any of the disqualifications mentioned in rule 6, and his seat shall thereupon become vacant:

Provided that a person representing an organization of agriculturists, a firm, corporation or a co-operative multi-purpose or sale society shall be debarred from continuing to be such member if he ceases to be a member of the organization of agriculturists, firm, corporation or co-operative multi-purpose or sale society of which he was the representative.

27. *Expenditure in connection with or incidental to such elections.*—All expenditure incurred by the Collector or the person authorised by him under rule 13 in connection with or incidental to the election of members of the market committee shall be recoverable under section 24 from the market committee by the Collector as an arrear of land revenue.

PART III.

MARKET COMMITTEE, ITS CHAIRMAN, OFFICERS AND SERVANTS AND DISPUTES SUB-COMMITTEE.

Their Functions and Powers.

28. *Election of chairman of the committee.*—(1) The Collector or any person authorised by him in this behalf shall call the first meeting of a newly constituted market committee to elect one of its members to be its chairman. For the purpose of election of the chairman, the Collector or the person authorised by him shall preside over the meeting but shall not vote.

(2) At such meeting a candidate for the office of chairman shall be proposed by one member and seconded by another. The names of all the candidates proposed and seconded shall be read out by the president of the meeting.

(3) If there is only one duly nominated candidate, he shall be declared to have been elected.

(4) If there are two or more such candidates, the votes of the members present at the meeting shall be taken.

(5) Every member wishing to vote shall be supplied with a voting paper on which the names of all the candidates shall be written legibly in English and in the regional language of the place. Every voting paper shall be initialled on the reverse by the president.

(6) A voter shall then place a mark against the name of the candidate for whom he wishes to vote, fold it up and deposit it in a ballot box placed before the president. If a voter is unable to do so, the president may mark the voting paper in the presence of the members, according to the voter's directions, and deposit it in the ballot box.

(7) The president shall then open the ballot box and count the votes in the presence of the members and declare the member who secures the largest number of votes to have been elected as the chairman. If there is an equality of votes among two or more candidates, the president

shall draw lots in the presence of the members and the person whose name is first drawn shall be declared to have been elected.

(8) Any voting paper which contains the signature of the voter or on which the mark is placed against more than one name or the reverse of which does not contain the initials of the president, shall be invalid.

(9) Immediately after the meeting, the president shall cause the notice declaring the name of the person elected to be affixed in some conspicuous place in the office of the market committee.

(10) The voting papers shall be sealed by the president and retained in safe custody in the office of the market committee, and the packet containing the voting papers shall not be opened or destroyed except under the orders of the Collector.

29. *Functions and powers of the chairman.*—The chairman shall be the Chief Executive Officer of the committee and all officers and servants of the committee shall, subject to these rules and to the directions, if any, given by the committee, be subject to his control. He shall conduct all correspondence and shall be responsible for the keeping of accounts, for the punctual rendering of all reports and returns and for the custody of all amounts not deposited in the treasury or with a bank approved by the Director.

30. *Term of office and casual vacancy in the office of chairman.*—(1) Any person elected as chairman shall hold office for one year from the date of his election as chairman :

Provided that if the term of the market committee expires before the expiry of his term of office, such person shall hold office until a new market committee comes into office and elects its chairman ;

Provided further that if such person ceases to be a member of the market committee, he shall cease to hold the office of chairman.

(2) In the event of the chairman dying, resigning or ceasing to hold the office for any reason before the expiry of his term of office, the Collector or any person authorised by him in this behalf shall call a meeting of the market committee to elect another person as chairman. The Collector or the person authorised by him shall preside over such meeting but shall not vote. Every chairman elected under this sub-rule shall hold office so long as the chairman in whose place he is elected would have held it if the vacancy had not occurred.

31. *Resignation by chairman or member.*—The chairman or any member of the market committee shall resign his office by a written application to the Collector. No such resignation shall take effect until it is accepted by the Collector.

32. *Meeting of the Committee.*—(2) Every meeting of the market committee other than those referred to in sub-rule (1) of rule 28 and sub-rule (2) of rule 30, shall be presided over by the chairman or in his absence by a member elected by the meeting to preside for the occasion.

(2) The chairman shall be entitled to speak and vote on all questions at the meeting.

(3) The member presiding over a meeting in the absence of chairman shall, for that meeting or during the period in which he presides over it, have all the powers of the chairman.

(4) All questions which may come up before the committee at any meeting shall be decided by the vote of the majority of the members

present at the meeting and in every case of equality of votes the chairman or the presiding member shall have and exercise a second or casting vote.

33. *Minute book to be kept.*—A minute book shall be kept by every market committee and a record of the proceedings of every meeting shall be entered therein by, or under the supervision of, the chairman or other presiding member and shall be signed by him. The minute book shall be permanently preserved. It shall be open to the inspection at all reasonable hours to members of the market committee, and also to the Collector, the Director or any other person authorised by the Collector or the Director in this behalf.

34. *Persons entitled to attend meetings.*—The Collector or any person authorised by him in this behalf and the Director or any person authorised by him in this behalf shall be entitled to attend any meeting of the market committee but they shall not be entitled to vote. A copy of the notice convening every meeting shall be sent to the Collector and the Director or any person authorised by the Director in this behalf.

35. *Copy of proceedings of meetings.*—A copy of the proceedings of every general meeting of the market committee shall be forwarded to the Collector and to the Director or any person authorised by the Director in this behalf.

36. *The market committee to provide for certain matters.*—After paying all sums due to Government, the market committee shall, so far as the funds at its disposal permit but subject to the provisions of the Act and these rules, provide—

(1) for the maintenance and improvement of any enclosure or building which may constitute the market yard,

(2) for the construction and repair of buildings, chabutras and other erections necessary for the purpose of the market, and

(3) for the health, convenience and safety of the persons using the market.

37. *Appointment of Disputes Sub-Committee.*—(1) The market committee may appoint a sub-committee called the disputes sub-committee consisting of—

(i) one of the nominated members of the committee, who shall be the chairman of the sub-committee;

(ii) one of the representatives of the agriculturists on the market committee;

(iii) one of the representatives of the traders on the market committee; and

(iv) the representative of local authorities on the market committee or, if there is no representative of local authorities on the committee, any other member of the committee,

to arrange for the settlement of disputes between buyers and sellers or their agents, including disputes regarding the quality or weight of the article, the allowances for wrappings, containers, dirt or impurities or deductions from any cause;

Provided that the chairman of the market committee shall not be a member of the disputes sub-committee.

(2) The Collector or any person authorised by him in this behalf may require a disputes sub-committee to appoint in respect of each market

year specified, by him a panel of not less than 12 persons but not more than 24 persons to act as arbitrators in the settlement of the disputes aforesaid. Every person included in the panel shall be either an agriculturist living in or near the market area or a trader doing business in such area.

(3) Where any such dispute arises, the parties thereto may agree to the settlement thereof in accordance with the following provisions:—

(a) The dispute shall be reported to the Secretary of the market committee who shall try to settle the dispute. If he fails, the dispute shall be settled in the following manner on payment of fees fixed by the market committee.

(b) Each party to the dispute shall select one arbitrator from the panel appointed for the purpose by the disputes sub-committee.

(c) If the arbitrators fail to agree, they may appoint an umpire who shall also be chosen from the panel aforesaid, to settle the dispute.

(d) An appeal shall lie against the decision of the arbitrators or umpire to the disputes sub-committee.

(e) The decision of the arbitrators or umpire or, where an appeal has been made to the disputes sub-committee, the decision of such sub-committee shall be final. The dispute shall, as far as possible, be decided on the spot and on the same day.

(4) No business shall be transacted at a meeting of such sub-committee unless there be present at least two members.

(5) Every meeting of the sub-committee shall be presided over by the chairman of the sub-committee and in his absence by a member elected by the meeting to preside on the occasion.

All questions which may come before the sub-committee at any meeting shall be decided by the vote of majority of the members present at the meeting and in every case of equality of votes, the chairman or the presiding member shall have and exercise a second or casting vote.

(7) The decision of the sub-committee shall be final.

(8) The market committee shall maintain a full record of all the disputes which come before the disputes sub-committee.

38. *Servants of the market committee.*—(1) The market committee shall appoint a Secretary and may employ such other officers and servants as may be necessary and proper for the efficient execution of its duties.

(2) Such officers and servants shall be divided into two classes:—

(i) superior officers and servants, and

(ii) inferior servants.

Superior officers and servants shall be the Secretary, clerks and such officers and servants as the Collector may determine. Inferior servants shall be peons, watchmen and other menial servants.

(3) The terms and conditions of service of the superior officers and servants shall be such as are approved by the Collector and those of the inferior servants shall be such as the market committee itself may decide.

(4) The appointments of superior officers and servants shall be made by the market committee subject to the approval of the Collector. Any punishment, revision in pay or terms of service or dismissal of the superior officers and servants shall also be subject to the approval of the Collector. All inferior servants shall be under the full control of the market committee.

but the committee shall make an immediate report to the Collector in regard to their appointments, pay, punishment, dismissal and other matters relating to such servants.

39. *Duties of market committee.*—The market committee shall furnish all information which the Collector or the Director or the officers duly authorised by either of them may require. In addition to the duties prescribed by the Act and the rules and its own bye-laws the market committee shall also be responsible for—

(1) the maintenance of proper checks on all receipts and payments by its officers;

(2) the proper execution of all works chargeable to the market committee funds; and

(3) keeping a copy of the Act and of the rules and notifications issued thereunder and of its bye-laws open to inspection free of charge at its office

PART IV.

MARKET FUND, EXPENDITURE AND ACCOUNTS.

40. *The Market Committee Fund.*—All money received by the market committee shall be credited to the fund called the market Committee Fund. Except where Government on application by the market committee or otherwise shall direct, all money paid into the market committee fund shall be credited at least twice a week in full into Government treasury or sub-treasury or a bank duly approved for this purpose by the Director. All balance from the fund shall be kept in such treasury or sub-treasury or bank and it shall not be drawn upon except in accordance with these rules.

41. *Expenditure.*—(1) Every cheque drawn on behalf of the market committee shall be signed by the chairman and its Secretary. In the absence of the chairman it shall be signed by any two members of the market committee and the Secretary and in the absence of the Secretary by the Chairman and one of the members of the market committee. No such cheque shall be drawn except on a regular detailed bill, either for payment immediately or for issue or recoupment of the imprest, which has been examined and passed by the Chairman. The amount of imprest shall be such as is authorised by the market committee.

(2) Except in the following cases the chairman shall not pass any bill unless the expenditure detailed therein has received the previous sanction of the market committee:—

(1) Salary and allowances of establishment;

(2) Payment for works and repairs sanctioned by competent authority;

(3) Urgent expenditure for which there is budget provision or which does not exceed Rs. 50 :

Provided that in the absence of the chairman the bills for payment of the above nature may be passed and signed by any two members.

42. *Remittance to treasury or bank.*—All remittances to the Government treasury or sub-treasury or bank shall be accompanied by challans or deposit slips in duplicate.

The monthly or other periodical statement of accounts furnished by the treasury or the bank shall be regularly filed and made available for audit.

43. *Pass-book.*—The pass-book shall be got written up-to-date at

least once a month by the treasury or sub-treasury department or the bank by which the original account is kept.

44. *Submission of budget.*—(1) For the purposes of rules 44 to 50, the market year shall be held to commence on the 1st September and end on the 31st August.

(2) The market committee shall hold a meeting each year during the first week of July to prepare a budget of income and expenditure for the ensuing market year. The budget shall be submitted to the Director or any officer authorised by him in this behalf not later than the 15th July for approval and the abstract accounts of the receipts and expenditure of the previous market year shall be submitted to the Director or any such officer not later than the 1st November.

(3) No expenditure shall be incurred for which there is no budget provision unless it can be met by reappropriation from savings under other heads.

45. *Works to be included in the budget.*—No works for which plans and estimates have not been previously prepared and sanctioned may be included in the budget.

46. *Evidence of sanction.*—Plans and estimates for works estimated to cost less than Rs. 500 shall be signed by the chairman of the market committee. In case of original works estimated to cost more than Rs. 500 the professional approval of the municipal engineer, when the market is situated within a municipal district or a municipal borough, and in other cases, of the district local board engineer, and, cases in which there is no such municipal engineer or the district local board engineer, of the Executive Engineer of the Public Works Department division shall be obtained and evidenced by his countersignature.

47. *Supervision of Works.*—All works shall be carried out under the supervision of the Chairman of the market committee or of any member of the market committee duly authorized in this behalf by the Chairman.

48. *Permanent Fund.*—The surplus amount of the market committee fund, at the close of each year shall be credited to the permanent fund of the committee and it shall be used only towards incurring the expenses of a permanent nature such as the construction of buildings, acquisition or purchase of sites.

49. *Annual Report.*—At the end of each market year, the market committee shall prepare an annual report and submit copies of it to the Collector, the Director and to such other officers as may be appointed by the Collector and the Director.

50. *Accounts and Audit.*—(1) The accounts of the market committee should be maintained in such manner as the Director may direct.

(2) The accounts of the market committee shall be audited locally by the auditors and sub-auditors of the Co-operative Department on payment of such audit fees as may be fixed from time to time by the Director. At the time of audit, the Chairman or any other member of the market committee authorised by him in this behalf shall cause to be produced all accounts, registers, documents and other relevant papers which may be called for by the audit officer for the purposes of audit. Any explanation called for by that officer for the settlement of any discrepancy shall also be immediately furnished to him.

PART V.

MARKET YARD AND MARKET PROPER.

51. *Declaration of market yard and market proper.*—Government may by notification in the Official Gazette declare—

(a) any enclosure, building or locality in any market area to be a market yard,

(b) any area, including all land with the buildings thereon, within such distance of the market yard, as it thinks fit, to be a market proper;

Provided that a market proper so declared shall include industrial concerns in the said area with their compounds, godowns and warehouses where the agricultural produce is stored.

52. *Control and conservancy of the market yard.*—(1) The market committee shall maintain one or more market yards as may be declared under the preceding rule. Subject to these rules and to the general or special orders of Government and to such control as is by these rules or by any other law vested in the Collector or Director or in the municipality, or the district local board, or the village panchayat the market committee shall manage market yards having regard always to the convenience of the trade in agricultural produce and the purposes for which the control is vested in the market committee. The market yard shall be open for trading at such hours as the market committee may from time to time fix. Carts or consignments of agricultural produce intended for sale shall be assembled in the market yard in such manner and at such times as may be permitted, and ingress may be permitted to such persons and at such times as the market committee may consider proper.

(2) In the market area the market committee shall exercise only such rights as may be necessary for the convenient control of the market and for the convenience and comfort of the persons using the market and for collection of the fees, in accordance with the provisions in the bye-laws.

(3) (a) The market committee may require the owner or manager of any industrial concern located within the market area to furnish such information in respect of all the agricultural produce for which the market is established and which is handled or used by the industrial concern, as the committee may think necessary for the purposes of the control of the market.

(b) Any owner or manager so required to furnish information shall be entitled to appeal against such requisition within one fortnight from the date of the requisition to the Collector whose decision in the matter shall be final.

PART VI.

FEES—LEVY AND COLLECTION.

53. *Market fees.*—(1) The market committee shall levy and collect fees on agricultural produce brought and sold in the market area at such rates as may be specified in the bye-laws.

(2) The market committee shall also levy and collect license fees from traders, general commission agents, brokers, weighmen, measurers, surveyors and other persons operating in the market according to rates specified in the bye-laws.

(3) No fees shall be levied on agricultural produce brought from outside the market area into the market area for use by the industrial concerns situate in the market area or for export, and in respect of which a declaration has been made and a certificate has been obtained in Form IV.

(4) The seller who is himself the producer of the agricultural produce offered for sale and the buyer who buys such produce for his own private and/or household use shall be exempt from payment of any fees under this rule.

54. *Recovery of fees.*—(1) The fees on agricultural produce shall be payable as soon as it is brought into the market yard or market proper or market area as may be specified in the bye-laws.

(2) The license fees shall be paid along with the application for license but in case the market committee refuses the grant of a license, the fees recovered shall be refunded to the applicant.

55. *Receipt.*—(1) The market committee shall maintain a register showing the fees collected by it. A receipt duly signed by the person authorised by the market committee shall be granted to every person in respect of fees collected from him under these rules or the bye-laws.

(2) Every person authorised by the market committee to collect fees shall pass receipts to the payees, keeping counterfoils of the receipts so granted and shall render account of all receipts at least once a day to the person duly authorised in this behalf by the market committee.

56. *Collection of fees.*—The fees shall be collected by the paid servants of the market committee and the right to collect the fees shall not be farmed out.

57. *Servants to wear badges.*—A servant of the market committee authorised to collect fees, shall wear a suitable badge provided by the market committee.

58. *Security.*—The market committee shall take such security, as it thinks fit, from its employees who are entrusted with the handling of money.

59. *Penalty for evasion of payment of fees.*—Any person removing or attempting to remove agricultural produce from the market yard or market proper or market area, as the case may be, before the fee has been paid and the receipt prepared and granted shall, on conviction, be punishable with fine which may extend to Rs. 50.

PART VII.

SALES AND TRADING IN MARKETS

60. *Sale of Agricultural Produce.*—(1) All agricultural produce brought into the market shall pass through the market yards and shall not, subject to the provisions of sub-rule (2), be sold at any place outside such yards.

(2) Processed agricultural produce may be sold either in the market yard, or in the market or in the market area, in accordance with the provisions of the bye-laws. Full details of such sales shall be reported to the market committee by the general commission agent, or if no general commission agent is employed in the transaction by the trader as well as the buyer.

Explanation.—For the purpose of this sub-rule "processed agricultural produce" shall include ginned cotton, cotton seed, husked paddy, groundnut seeds, but not manufactured produce.

(3) Such details of all agricultural produce resold in the market shall also be reported to the market committee in accordance with the provisions of the bye-laws.

(4) The price of agricultural produce brought into the market for sale shall be settled by open auction or by open agreement and not by secret signs and no deductions shall be made from the agreed price of the consignment except for any authorised trade allowance.

61. *Account of sales to be maintained.*—(1) The market committee shall maintain a record in which regular and proper account of each consignment of the agricultural produce brought in for sale in the market shall be kept.

Explanation.—For the purpose of this sub-rule entries collectively relating to more than one consignment shall not be deemed to be a proper and regular account of consignments.

(2) No cart or consignment which has entered a market yard shall be removed from the said yard except on the presentation at the gate of the market yard of a pass issued under the bye-laws.

62. *Agreement to be executed between buyer and seller*—(1) Every purchaser of agricultural produce shall sign an agreement, in duplicate, in Form V in favour of the seller before removing it from the market area. One copy of the agreement shall be supplied to the seller and the other shall be kept on the record of the market committee. Printed forms of agreement shall be supplied free of cost by the market committee.

(2) Nothing in this rule shall apply to the purchasers of agricultural produce for their own private and/or household use. The purchase by such purchaser shall be subject to such conditions as may be specified in the bye-laws.

63. *Publication of prices.*—The market committee shall, so far as practicable, place at the disposal of those using the market, information on such matters as the prices of the commercial crops ruling at the principal marketing centres of the tract and at the ports serving the same and the stocks held by mills. The information shall be published in such a manner as will be readily available to all persons using the market.

64. *Penalty for disobedience of orders of committee.*—(1) No person shall—

(a) enter a market yard in contravention of a direction given by a servant or a member of the market committee,

(b) disobey any of the directions of the market committee in regard to the places where carts laden with agricultural produce may stand or loads of agricultural produce may be exposed or in regard to the road by which or in regard to the times at which they may proceed.

(2) Any person contravening or disobeying any of the directions referred to in sub-rule (1) shall, on conviction, be punishable with fine which may extend to Rs. 10 for the first offence and to Rs. 50 for any subsequent offence.

65. *Licensed Traders and General Commission Agents.*—(1) No person shall do business as a trader or a general commission agent in agricultural produce in any market area except under a license granted by the market committee under this rule.

(2) Any person desiring to hold such license shall make a written application for a license to the market committee and shall pay such fee as may be specified in the bye-laws.

(3) On receipt of such application together with the proper amount of the fee, the market committee may, after making such enquiries, as

may be considered necessary for the efficient conduct of the market, grant him the license applied for. On the grant of such license the applicant shall execute an agreement in such form as the market committee may determine, agreeing to conform with these rules and the bye-laws and such other conditions as may be laid down by the market committee for holding the license.

(4) Notwithstanding anything contained in sub-rule (3), the market committee may refuse to grant a license to any person, who, in its opinion, is not solvent or whose operations in the market area are not likely to further efficient working of the market under the control of the market committee.

(5) The license shall be granted for a period of one year, after which it may be renewed on application and on payment of such fees as may be specified in the bye-laws.

(6) The names of all such traders and general commission agents shall be entered in a register to be maintained for the purpose.

(7) Whoever does business as a trader or a general commission agent in agricultural produce in any market area without a license granted under this rule or otherwise contravenes any of the provisions of this rule shall, on conviction, be punishable with fine which may extend to Rs. 200 and in the case of a continued contravention with a further fine which may extend to Rs. 50 for every day during which the contravention continues after the date of the first conviction, subject to the maximum of Rs. 200.

66. Powers of the market committee to suspend or cancel the license granted to traders and general commission agents.—(1) The market committee may, by a resolution passed by a majority consisting of not less than two-thirds of its members, cancel or suspend for a fixed period the license granted to any trader or general commission agent if he contravenes any of the conditions of his agreement or license or of the rules or bye-laws or who, in the opinion of the market committee, is not solvent:

Provided that no order cancelling a license or suspending it for a period more than six months shall be passed without the previous approval of the Collector.

(2) An appeal shall lie against the decision of the market committee given under sub-rule (1) to such officer as may be authorised by the Collector in this behalf and the decision of such officer in such appeal shall be final:

Provided that such appeal is made within 30 days of the date of decision of the market committee and the appellant abides by the decision of the market committee from the date of such decision till the date of the orders passed in appeal.

67. Licensed brokers, weighmen, measurers and surveyors.—(1) No person shall do business in any market area as a broker, weighman, measurer or surveyor except under a license granted by the market committee.

(2) Any person desiring to hold such license shall make a written application for a license to the market committee and shall pay such fees as may be specified in the bye-laws.

(3) On receipt of such application together with the proper amount of the prescribed fee, the market committee may, after making such enquiries as may be considered necessary for the efficient running of the

market, grant him the license applied for. On the grant of such license the applicant shall sign an agreement in such form as the market committee may determine agreeing to conform with the bye-laws and such other conditions may be laid down by the market committee for holding the license.

(4) Notwithstanding anything contained in sub-rule (3), the market committee may refuse to grant a license to any person, who, in its opinion, is not solvent or whose operations in the market area are not likely to further the efficient working of the market under the control of the market committee.

(5) The license shall remain in force from the date on which it is granted till 31st August following and may be renewed thereafter on application and on payment of such fees as may be specified in the bye-laws.

(6) The market committee may, by a resolution, cancel or suspend for a fixed period the license granted to any broker, weighman, measurer or surveyor if he contravenes any of the conditions of his agreement or license or of the rules or bye-laws or if in the opinion of the market committee his continuance as a license-holder is likely to be detrimental to the working of the market.

(7) An appeal shall lie against the decision of the market committee given under sub-rule (6) to such officer as may be authorised by the Collector in this behalf and the decision of such officer in such appeal shall be final:

Provided that such appeal is made within 30 days of the date of the decision of the market committee and the appellant abides by the decision of the market committee from the date of such decision till the date of the orders passed in appeal.

(8) The chairman may suspend the license of any broker, weighman, measurer or surveyor for any default for a period which may extend to one month.

(9) No person shall be entitled to do business other than that for which he holds a license or licenses.

(10) No person who is in the service of another person shall be eligible to hold a license as a broker, weighman, measurer or surveyor. If any licensed broker, weighman, measurer or surveyor enters service or does business other than that for which he holds a license or licenses, his license or licenses shall be deemed to have been cancelled.

68. *Charges for brokerage, weighing, measuring and surveying.*—The fee payable to a licensed broker, weighman, measurer or surveyor in respect of his services shall be such as may be specified in the bye-laws.

69. *Keeping of books by broker, weighman, measurer and surveyor.*—Every broker, weighman, measurer and surveyor licensed under these rules shall keep such books in such form and render such periodical returns and at such time and in such form as the market committee may from time to time direct and shall render such assistance in the collection and prevention of the evasion of fees due under these rules and bye-laws and in the prevention of the breach of the rules and bye-laws as may be required by the market committee.

70. *Equipment for weighmen, measurers and surveyors.*—Every weighman, measurer and surveyor shall possess such equipment as may be laid down in the bye-laws.

71. *Employing of a general commission agent, broker or surveyor.*—No person shall, in the absence of an express agreement, be bound to

employ a broker, a surveyor or a commissioned agent in any transaction or be required to pay for any broker, commissioned agent or surveyor employed by any other party to a transaction or when none is employed.

72. *Licensed weighman or measurer to wear a badge.*—Every licensed weighman or measurer when plying his trade shall wear a distinguishing badge of a suitable pattern provided by the market committee. A deposit of not less than one and not more than five rupees to cover the cost of the badge shall be paid to the market committee by every licensed weighman or measurer.

73. *Penalties for plying trade without license or badge.*—Any person working in the market as a broker, weighman, measurer or surveyor without a license or any weighman or measurer plying his trade without the authorised badge shall, on conviction, be punishable with fine which may extend to Rs. 200.

74. *General commission agents, etc. not to receive fees other than those specified for their services.*—No licensed general commission agent or his servant and no broker, weighman, measurer and surveyor shall solicit or receive fees other than those specified for their services in the bye-laws. For contravention of the provisions of this rule their license shall be liable to be cancelled forthwith.

75. *Trader or his servant not to solicit brokerage or weighing, measuring or surveying charges.*—If any trader or his servant or agent solicits or receives any fees for brokerage or weighing, measuring or surveying charges, his license shall be liable to be cancelled forthwith.

76. *Weighment or measuring by licensed weighmen or measurers.*—In the case of a sale or purchase of agricultural produce, all weighment and measuring shall be done by licensed weighmen and measurers.

77. *Penalties to licensed general commission agent, broker, surveyor, weighman or measurer for demanding or receiving any sum not authorised by rules or bye-laws.*—Any licensed general commission agent, broker, weighman, measurer or surveyor who shall demand, receive or retain or shall permit any other person to demand, receive or retain on account of or under the colour of, fees due in respect of his service, any sum not due under these rules or the bye-laws, or a larger sum than is due under these rules or the bye-laws, or from a person who is not liable to pay under these rules or bye-laws and any person who, not being a licensed general commission agent, broker, weighman, measurer or surveyor, shall demand, receive, or retain or facilitate the demanding, receiving or retaining of such sums, shall, on conviction, be punishable with fine which may extend to Rs. 200.

78. *The licensed trader to provide equipment for weighing and measuring.*—(1) The licensed trader shall provide or arrange to provide all such necessary authorised weights and measures and authorised weighing instruments at the time of taking delivery of agricultural produce sold in the market area as may be specified in the bye-laws.

(2) No licensed trader shall use weights and measures or weighing instruments other than authorised weights and measures or weighing instruments.

(3) Any licensed trader who commits a breach of the provisions of this rule shall be deemed to have violated the conditions of his license.

79. *Weights and measures to be used in market area.*—No weight, measure or weighing or measuring instrument other than an authorised weight, measure or weighing or measuring instrument shall be used in any market area.

80. *Units of price quotations to be used in the market area.*—The units of price quotations in every market area shall be in terms of authorised weights and measures and shall be such as are approved by the Director or any officer authorised by him in this behalf.

81. *Inspection of scales, weights and measures.*—The chairman, every member of the market committee and every employee of the market committee authorised by the market committee in this behalf, shall be entitled, at any time and without notice, to inspect, examine and compare any weight or measure, and weighing or measuring instruments used, kept or possessed in any open place within the limits of the market area, market proper or market yard.

82. *A set of standard weights and measures, weighing and measuring instruments to be kept by the market committee.*—The market committee shall keep at least one set of such weights and measures and weighing and measuring instruments as are standard weights, measures and weighing and measuring instruments, respectively, under the Bombay Weights and Measures Act, 1932, and as are in use in the market area. Such standard weights, measures and weighing and measuring instruments shall be available to the public for inspection and checking at all reasonable hours.

83. *Counterbalancing in weighing.*—If any rope or gunny bag or any other article is used to tie bundles in the pan on the goods side of the scale, a weight equivalent to the weight of the rope or of the gunny bag or of the article so used shall be added to the pan on the weight side of the scales in order to counterbalance the weight of the rope or of the gunny bag or of the article used for tying the bundles.

84. *Weighing on a weigh-bridge.*—Where the funds at its disposal permit, the market committee may, and, if required by Government shall, erect one or more weigh-bridges in the market and shall be responsible for keeping the same in proper working order. Any buyer or seller may at his option have his produce weighed on it on payment of the fees fixed under the bye-laws.

85. *Inspection of weights and measures and weighing and measuring instruments.*—(1) All weights and measures and weighing or measuring instruments which are in use in the market area shall be verified and stamped by the Inspector appointed under section 19 of the Bombay Weights and Measures Act, 1932 (hereinafter referred to as the 'Inspector of Weights and Measures') within whose jurisdiction the market is situated, in accordance with the provisions of the said Act and the rules made thereunder.

(2) Every licensed trader, general commission agent, weighman or measurer shall, on a requisition in writing being made to him by the chairman of the market committee, immediately produce for examination all and every scale and weight and measure used, kept, or possessed by him, or by any person or persons under his authority or control and shall allow the chairman to inspect, examine and compare the same.

(3) On a requisition by the market committee, the Inspector of Weights and Measures, in whose jurisdiction the market area is situated,

shall carry out the inspection and testing of weights, measures and weighing or measuring instruments in use in the market area and shall take such action as is consistent with the provisions of the Bombay Weights and Measures Act, 1932, and the rules made thereunder.

(4) An appeal against the decision of the market committee under sub-section (1) of section 12 shall lie within thirty days of such decision to the Director of Industries whose decision in such appeal shall be final.

86. *Report regarding unauthorised weights and measures and weighing and measuring instruments.*—If in the absence of an Inspector of Weights and Measures, any weight or measure or weighing or measuring instrument is, on examination, reasonably suspected to be unauthorised, a report shall forthwith be made by the chairman of the market committee in writing to the Inspector of Weights and Measures, who shall thereupon proceed in accordance with the provision of the Bombay Weights and Measures Act, 1932, and the rules made thereunder.

87. *Penalty for disobedience of order to produce weights or measures or weighing or measuring instruments for examination.*—Whoever being bound under the provisions of rule 85 to produce any weights or measures and weighing or measuring instruments for examination or allow the examination, inspection, or comparison of any weight or measure or weighing or measuring instrument, does not produce the weights or measures or weighing or measuring instruments or does not allow the examination, inspection or comparison of any weight or measure or weighing or measuring instrument shall, on conviction, be punishable with fine which may extend to Rs. 200.

88. *Storing of agricultural produce.*—All agricultural produce brought into a market shall be stored at such places as may be specified in the bye-laws. Pending such arrangements, the agricultural produce brought into the market when unsold may be stored in the compounds, godowns and warehouses owned or hired by the licensed general commission agent or broker for that purpose. The goods so stored shall be weighed in the presence of the seller or his representative at the time of delivery for storing and an acknowledgment indicating the kind and weight of goods shall be given by the licensed general commission agent or broker to the seller. Such storing of agricultural produce shall be subject to the payment of such storage fee and such other conditions as may be specified in the bye-laws.

89. *Regulation of advances to agriculturists.*—A licensed general commission agent or broker may give advances either in cash or in kind to agriculturists, but such advances shall be made subject to the following conditions:—

(1) If any agreement is entered into between the lender and the borrower, the lender shall supply a copy of the agreement to the borrower.

(2) When the advances are given from time to time, an account book of the advances given and repayments made shall be kept in the manner laid down in the bye-laws. The lender shall give a copy of such account book to the borrower and enter and attest with his signature every individual transaction of lending and recovery in the copy of the account book so given.

90. *Prevention of adulteration of agricultural produce.*—It shall be the duty of the market committee to take all possible steps to prevent

the adulteration of agricultural produce in the market area and no person doing business in the market area shall cause adulteration of agricultural produce in such area.

Explanation.—For the purposes of this rule, adulteration of agricultural produce shall include the mixing of last pickings of cotton or inferior variety of cotton with superior variety of cotton, bold linseed with small linseed, ghee with vegetable ghee and mixing of earth, dirt and stones or any other extraneous matter with any agricultural produce.

91. *The grading and standardisation of the agricultural produce.*—The market committee shall maintain for the use of sellers and buyers a set of samples of standard grades of agricultural produce sold at the market and shall renew the same as may be necessary from time to time. The market committee shall also arrange to keep and exhibit samples of different grades of agricultural produce with indications of parity prices based on rates ruling in terminal and key markets like Bombay, for the information of sellers and buyers.

92. *Keeping of price list.*—The market committee shall maintain daily lists of prices of different types and grades of agricultural produce in respect of which the market is established.

93. *Collector empowered to call meeting of the market committee.*—On requisition from at least half of the number of members of the market committee or of his own motion the Collector may, if he is satisfied about the urgency of the matter, call a special meeting of the market committee to consider matters of immediate importance for the working of the market.

94. *Special provisions when these rules come into force for the first time.*—Government may by notification in the Official Gazette suspend during the first year of the establishment of the market in any market area the operation of any of the provisions of these rules for such period and to such extent as it thinks fit.

FORM I.

[See rule 13 (1)]

NOMINATION PAPER.

1. Name of the constituency.
2. Full name of candidate.
3. Number of candidate in the list of voters.
4. Father's or husband's name.
5. Age.
6. Sex.
7. Community.
8. Occupation and address.
9. Full name of proposer.
10. Number of proposer in the list of voters.
11. Signature of the proposer.
12. Full name of the seconder.
13. Number of the seconder in the list of voters.
14. Signature of the seconder.

CANDIDATE'S DECLARATION.

I declare that I am willing to stand for election.

Signature of candidate.

Certificate of delivery by the Collector, or other authorised person.
Serial No.

This nomination paper was delivered to me by
(person) at _____ (date and hour) _____

Signature of the Collector or other authorised person.

Instruction.—Nomination papers which are not presented to the Collector or other authorised persons before
(hour) on the _____
day of _____ 19 _____, shall not be received.

FORM II.
[See rule 15].

List of nominations received on _____

(date)

for _____

constituency.

1. Serial number.
2. Name of candidate.
3. Father's or husband's name.
4. Sex.
5. Community.
6. Occupation and address.
7. Name of proposer.

Name of seconder.

Note.—The nomination papers shall be taken up for scrutiny at
a.m. _____ the _____ day of _____ at
p.m. _____

(place).

Signature of the Collector or person authorized by him.

FORM III.
[See rule 18 (2)]

LIST OF VALID NOMINATIONS.

1. Serial number.
2. Name of candidate.
3. Sex.
4. Community.
5. Address.

Note.—The poll shall be taken between _____ and _____ at
the polling stations already notified.

Signature of the Collector or person authorized by him.

FORM IV.
[See rule 53 (3)]

(FORM OF DECLARATION AND CERTIFICATE.)

Kind of agricultural produce.	Carts and packages.	Where bought.	Name of seller.	Through whom bought.	Name of the buyer or his agent.
1	2	3	4	5	6

I hereby certify that the above-mentioned agricultural produce has been bought outside the limits of the market area and brought in the limits of the market for the purposes of—

Dated, _____

Signature, _____

FORM V.
[See rule 62 (1).]
FORM OF AGREEMENT.

Name of seller and his village.

Name of general commission agent, if any.

Name of buyer or his agent.

Number of carts, packages and loads.

Kind of produce, quality.

Rate.

Place of delivery.

Date.

Market fee.

RS. A. P.

Ticket number

Signature of market committee's servant.

I hereby agree that when the above-mentioned agricultural produce is unloaded, if I refuse to take it at the rate stated above, the matter shall be referred for arbitration in accordance with the provisions contained in rule 37 of the Bombay Agricultural Produce Markets Rules, 1941. I bind myself to accept the decision given in such arbitration under the said rule.

Signature of the buyer or his agent.

Notifications; Bombay High Court, 1941.

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High Court of Judicature at Bombay.

Published in the *Bombay Government Gazette*, Part IV-C, dated the 16th January 1941.

APPELLATE SIDE.

Bombay, 8th January 1941.

No. 44.—The Honourable the Chief Justice and Judges are pleased to direct that the following be added as Circular No. 26-B after Circular No. 26-A at page 32 of the Criminal Circular Order Book, 1931:—

"26-B. Government have agreed to reciprocity in the matter of direct service of summonses on witnesses and accused persons in non-extraditable cases between Criminal Courts in the Province of Bombay and those in the Banswara State.

The channel of correspondence is the District and Sessions Judges, and District Magistrates or First Class Magistrates of Bombay Province and officers of the same rank in the Banswara State.

The following is a list of the Magistrates' Courts in the Banswara State:—

- (1) High Court Judge, Banswara State.
 - (2) District and Sessions Judge, Banswara State.
 - (3) First Class Magistrate, Banswara State.
 - (4) Chief Revenue Officer, Banswara State."
- (Vide G. R., H. D., No. 3483/4, dated the 17th September 1940.)

Published in the *Bombay Government Gazette*, Part IV-C., dated the 6th February 1941.

APPELLATE SIDE.

Bombay, 29th January 1941.

No. 294.—The Honourable the Chief Justice and Judges are pleased to direct that the following amendments be made in the Civil Manual, 1940, Volume I:—

In paragraph 32 of Chapter I-A at page 60, for the words "the International Court at Bangkok" in the first sentence and the concluding sentence in paragraph (ii) the following words should be substituted:—

"the High Court of the Justice, Bangkok".

Published in the *Bombay Government Gazette*, Part IV-C., dated the 13th February 1941.

APPELLATE SIDE.

Bombay, 10th February 1941.

No. 459.—The Honourable the Chief Justice and Judges with the previous approval of Government are pleased to direct that the following amendment be made in the Civil Manual, 1940, Volume I:—

Substitute the following for the last sentence in paragraph 9 of Chapter XIV at page 166:

"The District Judge may modify and may permit Assistant, Small Cause Court and Subordinate Judges to modify the above

hours of work in their respective offices, but not so as to reduce the total hours, with a view to allowing morning hours in districts where the hot weather is severe, or in places where Revenue offices hold morning hours on Bazar-days. Any such modification should be reported to the High Court."

Published in the *Bombay Government Gazette*, Part IV-C, dated the 20th February 1941.

ORIGINAL SIDE.

Bombay, 12th February 1941.

No. 163.—The Honourable the Chief Justice and Judges are pleased to direct that the following be substituted for Rules 148 and 149 under the heading "Third Party Procedure" at pages 44 and 45 of the Rules and Forms of the Bombay High Court, Original Side, 1936:—

"148. *Remedy of a person served with a third party notice.*—(1) Where a person served with a third party notice by defendant makes as against any person not already a party to the suit such a claim as is defined in Rule 142, he may by leave of the Court or a Judge issue a third party notice to that effect; and the preceding rules as to third party procedure shall apply *mutatis mutandis* to every notice so issued and the expression 'third party notice' and 'third party' in these rules shall apply to and include other notices so issued and every person served with such notice respectively;

(2) Where a person served with a notice under this rule by a third party in turn makes such a claim as is defined in Rule 142 against another person not a party to the suit the procedure prescribed by the preceding rules shall be followed as regards such further person and any other further person or persons so served and so on successively.

149. *Defendant claiming against co-defendant.*—Where a defendant claims against another defendant (a) that he is entitled to contribution or indemnity or (b) that he is entitled to any relief or remedy relating to or connected with the original subject matter of the suit and substantially the same as some relief or remedy claimed by the plaintiff or (c) that any question or issue relating to or connected with the said subject matter is substantially the same as some question or issue arising between the plaintiff and the defendant making the claim and should properly be determined not only as between the plaintiff and the defendant making the claim but as between the plaintiff and that defendant and another defendant or between any or either of them, the defendant making the claim may without leave of the Court or a Judge issue and serve on such other defendant a notice making such claim or specifying such question or issue and the same procedure shall be adopted for the determination of such questions between the defendants as would be issued and taken against such other defendant, if such last mentioned defendant were a third party; but nothing herein contained shall prejudice the rights of the plaintiff against any defendant in the suit."

Published in the "*Bombay Government Gazette*", Part IV-C, dated the 6th March 1941.

ORIGINAL AND APPELLATE SIDES.

High Court, Bombay, 3rd March 1941.

No. 776.—The following rule has been made by the High Court of Judicature at Bombay, in exercise of the powers conferred by section 122 of the Code of Civil Procedure, Act V of 1908, and has received the previous approval of the Government of Bombay. It is published for general information under section 127 of the Civil Procedure Code.

Rule.

The following amendment shall be made in sub-rule (2) of rule 54 of Order XXI :—

Substitute a comma for the full stop at the end of the sub-rule and *add* the following thereafter :—

"and also, where the property is situate within cantonment limits, in the office of the local cantonment Board and the Military Estates Officer concerned."

Published in the "*Bombay Government Gazette*", Part IV-C, dated the 27th March 1941.

APPELLATE SIDE.

Bombay, 19th March 1941.

No. 1168.—In exercise of the powers conferred by section 9 of the Presidency Small Cause Courts Act, 1882, the High Court is pleased to direct that with effect from the first day of June 1941 in rule 1 (2) of the Presidency Small Cause Court Rules made by the High Court and notified at pages 2070 and 2096 of the *Bombay Government Gazette* for 1939, Part IV-A, the year "1940" shall be substituted for the year "1938" and the following amendments shall be made in the Schedule annexed to the said Rules :—

I

Against Order V delete the entries relating to Rule 21-A in the 2nd and 3rd columns.

II

Against Order XXI between the entries relating to Rule 15 (2) and Rule 17 in the 3rd column insert the following entry: "Rule 16 omit the Explanation."

III

Against Order XXI at the end of the entries relating to Rule 25 (2) in the 2nd and 3rd columns add the words "and omit the proviso".

IV

Omit the words "Second Schedule. Arbitration" in the 1st column and all entries relating to the Second Schedule in the 2nd and 3rd columns.

No. 1171.—In exercise of the powers conferred by section 44 of the Arbitration Act, 1940 (X of 1940), the Honourable the Chief Justice and Judges are pleased to make the following rules :—

1. *Title of application.*—(a) Save as hereinafter provided, all applications, affidavits and proceedings, under the Act, shall be intitled in the matter of the Act, and in the matter of the Arbitration.

(b) Applications under Chapter IV of the Act shall be intitled in the suit or matter to which order or reference is made.

(a) Applications under section 34 of the Act shall be intitled in the suit which the applicant seeks to have stayed.

(2) Applications under section 7(2) of the Act shall be intitled in the matter of the insolvency in which the reference to arbitration is sought or claimed.

(c) Applications under section 14 of the Act shall be numbered and registered as regular suits. Other applications under the Act shall be numbered and registered as Miscellaneous Applications requiring judicial enquiry.

2. *Mode of applications.*—All applications under the Act shall be made only to the proper Court and all applications shall be made by petition and shall be presented in the same manner as plaints or other applications to the Clerk of the Court or to such other officer as the Court appoints in that behalf who shall cause them to be registered and take such orders as are necessary from the presiding Judge.

3. *Contents of petition.*—Every petition shall be divided into paragraphs numbered consecutively and shall contain a statement of facts relied on and the nature of the relief asked for, and shall clearly specify the persons liable to be affected thereby. A copy of the Arbitration agreement, the special case or the Award relating to the petition, if any, whenever necessary, shall be annexed thereto.

4. *Filing of award.*—(a) The Arbitrator or Umpire or any of the parties to the arbitration may cause the Award or a signed copy thereof to be filed in Court in the manner prescribed in rule No. 2.

(b) When the Award is filed by the Arbitrator or Umpire he shall, together with the Award, send to the Court any depositions and documents which have been taken and proved before him, and the opinion pronounced by the Court on the special case submitted by him, if any, in accordance with section 14 of the Act, by forwarding the same under a sealed cover addressed to the Court. He shall also send together with the Award a copy of the notice given to the parties concerned and affidavit of service of such notice and of attestation of his signature on the Award.

(c) When the award is filed by any of the parties to the Arbitration under clause (a) the party may move the Court to direct the Arbitrator to produce in original such of the documents as were produced before him together with the Record of the Arbitration.

5. *Notice of filing award.*—When the Award has been filed in Court, the Court shall forthwith issue Notice of such filing to the parties interested in the Award.

6. *Notice of application to persons affected by Award.*—Upon any application by petition under the Act, the Judge shall direct Notice thereof to be given to all persons mentioned in the petition, and to such other persons as may seem to him to be likely to be affected by the proceedings, requiring all or any of such persons to show cause, within the time specified in the notice, why the relief sought in the petition should not be granted.

7. *Limitation for application for judgment on Award.*—An application for judgment in terms of an award shall not be made until after the expiration of thirty days from the date of service of the Notice of filing the Award.

8. *Court to issue Notice on application under section 20.*—When an application under section 20 of the Act is filed and registered, the Court

shall on the application issue a Notice, returnable within not less than ten days from the service thereof, calling upon the opposite party to show cause why the Arbitration Agreement should not be filed.

9. *Processes to be issued on application by Arbitrator or Umpire.*—Processes to the parties to arbitration proceedings or to witnesses shall be issued by the Court on the written application of the Arbitrator or the Umpire.

10. *Accompaniment of the above application.*—If the proceedings are under Chapter II of the Act, the application for such processes must be accompanied by a copy of the agreement under which the Arbitrator or the Umpire is acting. If otherwise, the date of the Order appointing him Arbitrator or Umpire shall be mentioned in the application.

11. *Application of Code of Civil Procedure and the Civil Circulars.*—In the cases not provided for in the foregoing rules or in the Act, the provisions of the Code of Civil Procedure, 1908, and the High Court Civil Circulars, mutatis mutandis, shall apply to all proceedings before the Court and to all appeals under the Act.

12. The Court fees and process fees chargeable for all petitions shall be in accordance with the Court Fees Act and the rules for the levy of process fees in force for the time being.

13. The appended forms, with such variations as the circumstances of each case may require, shall be used for the purposes therein mentioned.

No. 1.

APPLICATION FOR AN ORDER OF REFERENCE.

(Title of Suit)

1. This suit is instituted for (state nature of Claim).
2. The matter in difference between the parties is (state matter of difference).
3. The applicants being all the parties interested have agreed that the matter in difference between them shall have referred to arbitration.
4. The applicants therefore apply for an order of reference.

A. B.

C. D.

Dated the day of

19

Note.—If the parties are agreed as to the arbitrators it should be so stated.

No. 2.

ORDER OF REFERENCE.

(Title of Suit.)

Upon reading the application presented on the day of 19 , it is ordered that the following matter in difference arising in this suit, namely:—

be referred for determination to X and Y, or in case of their not agreeing then to the determination of Z, who is hereby appointed to be Umpire; and such arbitrators are to make their award in writing on or before the day of 19 , and in case of the said arbitrators not agreeing in an award the said Umpire is to make his award in writing within months after the time during which it is within the power of the arbitrators to make an award shall have ceased.

Liberty to apply.

Given under my hand and the seal of the Court, this day of 19 .

Judge.

No. 3.

ORDER FOR APPOINTMENT OF NEW ARBITRATOR.

(Title of Suit).

Whereas by an order, dated the day of 19 (state order of reference and death, refusal, etc., of arbitrator), it is by consent ordered that Z be appointed in the place of X deceased (or as the case may be) to act as arbitrator with Y, the surviving arbitrator, under the said order; and it is ordered that the award of the said arbitrators be made on or before the day of 19 .

Given under my hand and the seal of the Court, this day of 19 .
Judge.

No. 4.

SPECIAL CASE.

(Title of Suit).

In the matter of an arbitration between AB of and CD of the following special case is stated for the opinion of the Court :—

(Here state the facts concisely in numbered paragraphs.)

The questions of law for the opinions of the Court are :—

First whether

Secondly whether

X.
Y.

Dated the day of 19 .

No. 5.

AWARD.

(Title of Suit).

In the matter of an arbitration between A B of and C D of :—

WHEREAS in pursuance of an order of reference made by the Court of and dated the day of 19 the following matter in difference between A B and C D, namely :—
has been referred to us for determination ;

Now, we, having duly considered the matter referred to us, do hereby make our award as follows :—

We award—

(1) that

(2) that

Dated the day of 19 .

X.
Y.

Published in the "Bombay Government Gazette", Part IV-C, dated the 10th April 1941.

APPELLATE SIDE.

Bombay, 2nd April 1941.

No. 1336.—The Honourable the Chief Justice and Judges with the previous approval of Government are pleased to direct that the following amendments be made in the Civil Manual, 1940 :—

I

Delete the last sentence in the Note to rule 18 of Chapter XIV at page 170 of Volume I.

II

Substitute the following Forms for the existing Forms in Appendix H at pages 387—401 and Form I in Appendix M at pages 458—459 of Volume II :—

A

Form of Personal Security Bond for Nazir, Clerks, and Bailiffs of Districts and Subordinate Courts.

[For the Form see pages 507-510 of Part IV-C of the *Bombay Government Gazette*, 1941. *Editor*.]

B

Form of Security Bond for Nazirs, Clerks, and Bailiffs of District and Subordinate Courts (when Government Securities are deposited.)

[For the Form see pages 510-513 of Part IV-C of the *Bombay Government Gazette*, 1941. *Editor*.]

C

Form of security Bond to be taken from Deputy Nazirs.

[For the Form see pages 513-515 of Part IV-C of the *Bombay Government Gazette*, 1941. *Editor*.]

D

Form of Security bond to be taken from Deputy Nazirs (when Government securities are deposited.)

[For the Form see pages 515-518 of Part IV-C of the *Bombay Government Gazette*, 1941. *Editor*.]

Published in the *Bombay Government Gazette*, Part IV-C, dated the 17th April 1941.

Bombay, 15th April 1941.

No. 391.—The Honourable the Chief Justice and Judges are pleased to direct that the following amendment be made in the Rules and Forms of the Bombay High Court, Original Side, 1936 :—

Add the following at the end of rule 631 at page 140 :—

"The Judge hearing testamentary matters may, however, in a proper case and for reasons to be recorded in writing dispense with the justification of surety."

Published in the *Bombay Government Gazette*, Part IV-C, dated the 24th April 1941.

Bombay 22nd April 1941.

No. 424.—In exercise of the powers conferred by section 112 of the Presidency Towns Insolvency Act, 1909 (III of 1909), and with the previous sanction of the Provincial Government required by section 113 of the said Act, the Honourable the Chief Justice and Judges are pleased to direct that the following amendments be made in the Bombay Insolvency Rules, 1910 :—

Substitute the following for rule 125 at page 21 :—

"125. *Application*.—An insolvent intending to apply for his discharge under section 38 of the Act, shall produce to the Insolvency Registrar a certificate from the Official Assignee specifying the number of his creditors of whom the Official Assignee has notice (whether they have proved or not). The Insolvency Registrar shall, not less than twenty-eight days before the day appointed for hearing the application, give notice of the time and place of the hearing of the appli-

cation to the Official Assignee and shall cause such notice to be published, once in the Official Gazette, and by affixture thereof to the Court Notice Board and shall also send such notice by registered letter without the seal of the Court to each creditor not less than one month before the day so appointed. Such notices shall be in the Forms Nos. 31 and 32, in Appendix I hereto."

Substitute the following for rule 11 at page 2:—

"1. *Process to be sealed.*—All summonses, petitions, notices, orders, warrants, and other process issued by the Court shall, unless otherwise provided by these Rules, be sealed."

Substitute the following for rule 180 (b) in the slip attached to page 31:—

"180 * * * * *

(a) * * * * *

(b) A commission of $6\frac{1}{2}$ per cent. on the principal amount or value of the assets collected by him in each estate and a commission of 1 per cent. on the value of assets taken charge of or collected by him as Interim Receiver and a commission of 5 per cent on the amount paid in pursuance of Scheme of arrangement and when an application is made under section 21 of the Act on the ground that the debts of the insolvent are paid in full, a commission of 3 per cent. on the total of such debts (the same to be payable before any order is made under this section)."

No. 425.—The Honourable the Chief Justice and Judges are pleased to direct that the following rules be added under the new Chapter XXXV-A at page 192 of the Rules and Forms of the Bombay High Court, Original Side, 1936:—

"APPEALS TO THE FEDERAL COURT.

(Under Section 205 of the Government of India Act, 1935.)

839-A. *Certificate under section 205 (1) of the Government of India Act, 1935.*—The Appellate Court will, in every case, consider whether or not a substantial question of law as to the interpretation of the Government of India Act, 1935, or any Order in Council made thereunder is involved and will of its own motion give or withhold a Certificate accordingly. The Certificate shall be in Form No. 137-A.

839-B. *Application for such certificate.*—If through inadvertence or otherwise the Court has omitted to give such a Certificate any party desiring to appeal to the Federal Court may within one month from the date of the Decree complained of or within such extended time as the Court may allow move the Court for the grant of such Certificate. The Motion will be heard by the Judges who decided the case or (if not available) by such Bench consisting of not less than two Judges as the Chief Justice may direct.

839-C. *Petition for leave to appeal to Federal Court.*—Petition for leave to appeal to the Federal Court shall be in Form No. 137-B. The petition shall specify in the heading the actual parties to the appeal at the time of the presentation of the petition, tracing their relation to the original parties where they have been placed on the record as representatives in interest, and shall be presented to the Appellate Court. The petition shall, so far as applicable, comply with rule 93 as to plaints.

839-D. *Notice on petition.*—Upon the acceptance of the petition the Prothonotary and Senior Master shall, if directed, issue a Notice calling upon the opposite party to show cause within eight days after service of the said notice why the prayers of the petition should not be granted. The Notice shall be in Form No. 137-C.

839-E. *Notice to be brought on within a certain time.*—A notice issued under rule 839-D shall be brought on for argument within one month from the date of issue, and if it is not brought on within the said time it shall be liable to be discharged.

839-F. *Printing of record.*—The record of appeals to the Federal Court shall be printed in Bombay in accordance with rules 813 and 826 *mutatis mutandis*.

839-G. *Security for costs*—(1) Within the time prescribed by law or within such further time as may be granted by the Appellate Court, the Appellant shall, except in the case provided in sub-rule (2), furnish security for payment of the Respondent's costs to the extent of Rs. 2,000 and such security may be deposited either in cash or Government Securities unless the Court has directed some other form of security to be furnished. In special cases, the Court may require security for costs of appeal to a larger amount but in no case exceeding Rs. 5,000.

(2) *When security for costs unnecessary.*—No security for the costs of the Respondent shall be required in a case where the only ground of appeal stated in the petition is that any question of law as to the interpretation of the Government of India Act, 1935, or any Order in Council made thereunder has been wrongly decided.

839-H. *Deposit for expenses of transcript.*—The Appellant shall also within the said period deposit in Court, towards defraying the fees and expenses to be incurred in preparing the transcript record, the sum of Rs. 300.

839-I. *Contents and preparation of transcript.*—(a) Within two weeks of the costs for the preparation of the paper book being deposited, an index of all the documents to be included in the transcript shall be prepared by the office in the following form together with a list of all other papers, documents and exhibits in the case not included in the transcript :—

INDEX

Record Number or Exhibit-mark.	Description of document.	Date of document.	Page of transcript to be filled in afterwards.

(b) *Settling of Index.*—As soon as the index and list are ready a notice shall be issued by the Prothonotary and Senior Master requiring the Attorneys of both parties to attend the Prothonotary and Senior Master's Office for the purpose of settling the index on the date specified in the notice.

(c) If the Appellant or his Attorney fails to attend for the purpose of settling the Index the Prothonotary and Senior Master shall place the matter before the Appellate Court for directions. Any costs incurred on such account shall be borne in such manner as the Appellate Court may direct.

(d) If the parties are agreed as to the documents to be omitted, such documents shall not be translated or transcribed.

(e) Any of the parties may apply to the Appellate Court within two weeks from the date of the Prothonotary and Senior Master's order directing any documents to be included in or excluded from the transcript record.

(f) If either party shall expressly ask for translation or inclusion of any document and the application is granted the circumstances shall be noted in the transcript.

(g) Any part of the record which may have been officially translated for the purpose of the hearing in the High Court shall not be translated over again unless the Court specially order.

839-J. *Further deposit for translation.*—Within two weeks after the date of any final notification to the Prothonotary and Senior Master, or other proper officer, specifying the papers to be translated or transcribed the Chief Translator or other proper Officer shall make an estimate whether the deposit made by the Appellant will be sufficient to recover the expense within a margin of Rs. 100; and if not, what further deposit will be necessary. The Prothonotary and Senior Master or other proper officer will notify the amount of the further deposit to the Appellant who will be required to deposit this further amount within one month of the service of notice upon him; when the actual cost of the transcript has been ascertained, the balance, if any, of the amount deposited will be returned to the Appellant.

839-K. *Failure to furnish security and deposit for transcript.*—If the Appellant shall fail within the time prescribed to furnish security for costs, or to deposit the amount required for the preparation of the record in accordance with rules 839-G, 839-H and 839-J, the proceedings shall be placed before the Appellate Court for disposal.

839-L. *Fees for preparing the record.*—For preparing the record, fees shall be charged at the following rates:—

Estimating	...	...	Rs. 16.
Preparing Index	...	...	1 anna per item.
Examination of proofs	...	...	Four annas for every page.

Certifying a copy of the record by the Prothonotary and Senior Master Re. 1 for every eight pages.

839-M. *Notices for certificate, declaring appeal admitted and of transmission of record.*—Notices shall be limited, in the absence of any express direction by the Court, to—

(a) The notice of an application for a certificate under O. 45, r. 3, of the Code of Civil Procedure.

(b) The notice declaring the appeal admitted.

(c) The notice of the transmission of the Record to the Federal Court.

In all cases where a party is represented by an Attorney, service on such Attorney shall be deemed sufficient notice.

839-N. *Translation by whom to be made and fees therefor.*—Without prejudice to the provisions of rule 839-I (g) the translation of documents required for the transcript records in appeals to the Federal Court will be made by the Court Translators, or by such other persons as the Honourable the Chief Justice may from time to time appoint in that behalf. The parties on each side will be invited from time to time to inspect such translation, and in case of disagreement, the points in dispute, which must be stated in writing, will be submitted within two weeks to the Chief Translator who shall decide. The translation thus made shall be examined and authenticated by the Chief Translator or such other person as the Honourable the Chief Justice may from time to time appoint in that behalf, and will be filed with the record of the case.

A fee of one rupee per folio will be levied on account of translation, eight annas per folio on account of examination and authentication, and two annas per folio on account of transcription. The balance of these fees will be credited to Government after making provision for the payment of persons not on the establishment of the Court employed under this rule.

839-O. *Application for transmission of original documents.*—In case any original documents are required to be transmitted with the record, application for an order on the Prothonotary and Senior Master to transmit such documents may be made to the Judge sitting in Chambers, who may make such order or refer the matter to the Judges who heard the Appeal, or, if they are not available, to the Appellate Court.

839-P. *Practice as to translations and paper books.*—Save as herein provided the practice as to translation and paper books shall be regulated by such office rules as the Chief Justice and Judges may from time to time determine.

839-Q. *List of pending appeals.*—A list shall be maintained showing the numbers and dates of all pending Federal Court Appeals in various stages of preparation, and the Prothonotary and Senior Master shall examine every quarter all such appeals in arrears

No. 137-A.

Rule 839-A. Certificate under Section 205 (1) of the Government of India Act, 1935.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY.

IN APPEAL FROM ITS ORIGINAL CIVIL JURISDICTION.

Appeal No. of 19 .

Suit No. of 19 .

Coram :

GEORGE VI by the Grace of God of Great Britain, Ireland and the British Dominions beyond the Seas King, Defender of the Faith, Emperor of India.

Appellant and Plaintiff or Defendant.

versus

Respondent and Defendant or Plaintiff.

Upon reading the Notice of Motion and (omit if certificate is given by the Court of its own motion) upon hearing Mr.

Advocate for the who applies for the certificate under section 205 (1) of the Government of India Act and Mr.

Advocate for the who objects to the same. This Court Doth certify under section 205 (1) of the Government of India Act, 1935, that the abovementioned case involves a substantial question of law as to the interpretation of the said Act (specify title). And

Order in Council

This Court Doth Order the costs of the said application and of this certificate to be costs in the Appeal to the Federal Court.

Witness

aforsaid this day of

Sealed.

This day of

19 .

Chief Justice at Bombay

19 .

By the Court. . .

Prothonotary and Senior Master

Certificate under section 205 (1) of the Government of India Act, 1935, drawn on application of Messrs. Attorneys for the

No. 137-B.

Rule 839-C. Petition for leave to appeal to Federal Court.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
IN APPEAL FROM ITS ORIGINAL CIVIL JURISDICTION.

Appeal No. of 19
Suit No. of 19

Appellant.

versus

Respondent.

To the Honourable the Chief Justice and other Judges of this Honourable Court.

The Petition of

Sheweth—

1. That this suit was filed by the plaintiff in the Court of first instance who prayed (here set out concise statement and give amount or value of the subject-matter).

2. That the said suit came on for hearing before the Honourable Mr. Justice on the day of and His Lordship on the day of passed the decree (or order) filed of record in this suit on the day of

3. That (here insert name of appellant) feeling himself aggrieved by the said decree (or order) filed a memorandum of appeal against the same on the day of

4. That the said appeal came on for argument before the Court of Appeal consisting of the Honourable and the Honourable on the day of and Their Lordships on the day of passed the decree (or order) filed of record in this suit on the day of

5. That your petitioner feeling himself aggrieved by the said decree (or order) is desirous of appealing to the Federal Court from the same on the grounds following (here state the grounds and number them consecutively, (i), (ii), (iii), *et seq.*)

6. That a certificate under section 205 (1) of the Government of India Act, 1935, was given by the Honourable and the Honourable on the day of

194

7. [To be added when the petitioner desires to appeal on grounds other than those on which a certificate is granted under section 205(1)]

That the amount or value of the subject-matter of the suit in the Court of first instance and of the matter in dispute on appeal to the Federal Court is Rs. 10,000 or upwards.

or That the decree (or order) from which an appeal is sought to the Federal Court involves a claim or question to or respecting property of the amount or value of Rs. 10,000 or upwards.

and (where the Appeal Court has affirmed the decree or order of the Court below) that the appeal herein involves a substantial question of law.

or That the case is otherwise a fit one for appeal to the Federal Court, apart from any question of law as to the interpretation of the Government of India Act, 1935, or any Order in Council made thereunder.

8. Your petitioner therefore prays that your Lordships will be pleased—

(a) to admit his petition and to transmit to the Federal Court under the seal of this Honourable Court a correct copy of the record so far as is material to the questions in dispute herein; and

(b) [To be added when the petitioner desires to appeal on grounds other than those on which a certificate is granted under section 205 (1)] to grant him a certificate that (here state nature of certificate required as set out in paragraph 7).

No. 137-C.

Rule 839-D. Notice.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY.

IN APPEAL FROM ITS ORIGINAL CIVIL JURISDICTION.

Appeal No.

of 19

Suit No.

of 19

Appellant.

versus

Respondent.

To

(Fill in the name of opposite party.)

The abovenamed

Take Notice that on the _____ day of _____ 19____ the (Appellant or Respondent) abovenamed presented a petition to This Honourable Court for leave to Appeal to the Federal Court from the decree (or order) of this Court passed on the _____ day of _____ 19____ and that you are hereby required within eight days after the service of this Notice upon you to show cause (if any you have but not otherwise) why a Certificate should not be granted to the following effect, viz. (here insert prayers in the petition), and why an order should not be made that the Appeal be admitted and the record transmitted to the Federal Court.

Dated this

day of

19 ____

Prothonotary and Senior Master.

Sealed.

The _____ day of _____ 19 ____

Messrs.

Attorneys for _____

Bombay, 17th April 1941.

No. 1473.—The Honourable the Chief Justice and Judges with the previous approval of Government are pleased to direct that the following be substituted for sub-paragraph (vi) of paragraph 4 in Chapter XIII at page 155 of the Civil Manual, 1940, Volume 1:—

"(vi) Copies should be compared by section-writers specially selected by the District Judge for the purpose, and the comparing fees collected during the month should be distributed at the end of the month amongst all the section-writers of the Court."

Published in the *Bombay Government Gazette*, Part IV-C, dated the 19th June 1941.

Bombay, 16th June 1941.

No. 1993.—The Honourable the Chief Justice and Judges are pleased to direct that the following circular be substituted for circular No. 151

at page 105 of the High Court Criminal Circular Order Book, 1931, as amended by Supplementary Criminal Circulars Nos 81 and 86:—

"151. The following revised instructions relating to the procedure for submission of petitions for mercy from convicts under sentence of death are reproduced for convenience of reference:—

I. A convict under sentence of death shall be allowed, for the preparation and submission of a petition for mercy, seven days after, and exclusive of, the date on which the Superintendent of the Jail has informed him of the confirmation by the High Court of the sentence passed on him, or of the dismissal by the Judicial Committee of the Privy Council of his application for special leave to appeal or of the breaking down of his application for special leave to appeal at any of the intermediate stages referred to in Instructions X (b), X (d) or XII (a) in case the convict has made no previous petition for mercy.

II. If the convict submits a petition within the above period it shall be addressed both to the Provincial Government and to the Governor General and the execution shall be postponed pending receipt of their orders.

III. The petition shall be sent to the Provincial Government in the first instance and if after consideration the Provincial Government rejects it, it shall be forwarded to the Secretary to the Governor General (Public). In case, however, the Provincial Government decides to commute the sentence, the petition to the Governor General shall be withheld and intimation of the fact shall be sent to the petitioner.

IV. If the convict submits a petition after the period prescribed by Instruction I, it will be within the discretion of the Provincial Government to consider the petition and to postpone execution, and, also to withhold or not to withhold the petition addressed to the Governor General, whether the Provincial Government considers the petition addressed to it or not. In the following circumstances, however, the Provincial Government shall forward such a petition to the Secretary to the Governor General (Public) whether it considers the petition or not, and shall simultaneously postpone execution pending the receipt of the orders of the Governor General:—

(1) If the sentence of death was passed by an appellate court on an appeal against the convict's acquittal, or on an application for enhancement of sentence which has been preferred by the Provincial Government, or as a result of an enhancement of sentence by the appellate court on its own motion; or

(2) when there are any circumstances about the case which, in the opinion of Provincial Government, render it desirable that the Governor General should have an opportunity of considering it. Such cases would include those of a political character, and cases in which for any special reason considerable public interest has been aroused.

V. The Provincial Government shall withhold a petition submitted by a convict when a petition containing a similar prayer has already been submitted to the Governor General. The petitioner shall be informed of the fact that the petition has been withheld and of the reason for withholding it.

VI. In all cases in which a Provincial Government submits a petition for mercy from a convict under sentence of death to the Governor General

it should forward, with the records of the case, its observations in respect of any of the grounds urged in favour of commutation, and, if it had previously rejected any petition addressed to itself, a brief statement of the reasons therefor.

VII. The Provincial Government shall transmit petitions for mercy, along with the records of the case, to the Secretary to the Governor General (Public) as expeditiously as possible; and upon receipt of the Governor General's orders shall immediately send an acknowledgment in the same manner as is used for communicating the orders. In the case of the Government of Assam the orders are communicated by telegram and receipt should be acknowledged by telegram. In the case of other Provincial Governments the orders, if the petition is rejected, are communicated by express letter and receipt should be acknowledged by express letter. Orders commuting the death sentence are communicated by telegram in all cases and receipt should be acknowledged by telegram.

VIII. If the convict submits a petition addressed to His Majesty the King-Emperor or the Secretary of State, the Provincial Government may dispose of it on its own responsibility when a previous petition has already been addressed to the Governor General, or the period prescribed in Instruction I above for the presentation of such a petition has expired. In other cases a petition addressed to His Majesty or to the Secretary of State should be treated as addressed to the Governor General and forwarded to the Secretary to the Governor General (Public). The Governor General may withhold any such petition.

IX. Petitions for mercy submitted on behalf of a convict under sentence of death shall be dealt with in the manner provided by these Instructions for dealing with a petition from the convict himself. A petitioner on behalf of a condemned convict shall be informed of the orders passed in the case. If the petition is signed by more than one person it will be sufficient to inform the first signatory. The convict himself shall also be informed of the fact that a petition has been submitted on his behalf and of the orders passed.

X. (a) If intimation is received from or on behalf of a convict, that it is intended to apply to the Judicial Committee of the Privy Council for special leave to appeal, the execution is postponed and a date, three weeks later, is fixed, before which proof must be furnished to the Provincial Government or to an officer specially authorised in this behalf that the necessary papers, instructions and funds have been sent to a firm of solicitors in England by registered ordinary mail. The convict and his adviser are informed of the date so fixed and the papers and funds which must be sent; and also where the applicant indicates his intention of applying in forma pauperis of the procedure relating to such applications as set out in Instruction XII below. They are informed at the same time that unless the application for special leave is lodged in the Privy Council Office before a further date, fourteen weeks from the date of intimation, intimation will be received from the India Office, and the execution will not be further postponed.

NOTE (i).—If sentences of death have been passed on more than one person in the same case, and if intimation is received from, or on

behalf of, only one or more but not all of them of an intention to apply for leave to appeal to the Privy Council, the execution of the sentence shall be postponed not only in the case of the person or persons from whom, or on whose behalf, such intimation has been received but also in the case of the other person or persons from whom, or on whose behalf, no such intimation has been received.

NOTE (ii).—The necessary funds will be a minimum of 50 guineas if one Counsel is engaged, but will be 80 to 100 guineas if the record is bulky or more than one Counsel is engaged. The convict and his adviser should, therefore, be advised, on receipt of intimation of intention to apply for special leave, that 50 guineas (say, Rs. 700) must be sent by the date fixed, and that it is not unlikely that 30 to 50 guineas (say, Rs. 420 to Rs. 700) more will be required.

NOTE (iii).—The necessary papers will include two copies of the printed paper book and a certified copy and two further copies of the judgment etc., of the High Court on appeal.

NOTE (iv).—Whenever an intimation is received of the intention of a person condemned to death to apply to the Judicial Committee, three copies of the paper book and of the judgment of the High Court are forthwith addressed directly by the Provincial Government to the Legal Adviser at the India Office, one copy of each being a certified copy.

(b) If proof is not furnished before the date fixed that the necessary papers, instructions and funds have been sent to a firm of solicitors in England, the execution is not further postponed unless the Provincial Government is satisfied that the delay is due to no fault of the convict or his adviser. If, in any special case the Provincial Government for this reason allows an extension of the date for furnishing of proof, the further date within which proof must be furnished is intimated to the convict or his adviser, and the second date specified in the preceding clause is correspondingly extended.

(c) If proof is furnished before the date fixed, the convict or his adviser is required to intimate the name of the firm of solicitors to whom the papers, instructions and funds have been sent and the registered number of the package containing such papers, instructions and funds, and the name of the firm, the date of the despatch of the papers, etc., the registered number of the package and the further date before which the application for special leave must be lodged in the Privy Council Office are communicated to the India Office by telegram directly by the Provincial Government, a copy being sent to the Secretary to the Governor General (Public) for information.

NOTE.—If proof is furnished that the necessary papers and instructions, but less than the minimum funds referred to in X (a), Note (ii), have been sent to a firm of solicitors in England, the Provincial Government shall forthwith telegraph to the India Office the names of the convict and such solicitors and shall ask for orders.

(d) After proof is furnished that the necessary papers, instructions and funds have been sent to England, the execution is except in cases under XII (c) postponed until intimation is received by the Provincial Government from the India Office that the application for special leave has not been lodged in the Privy Council Office by the date fixed, or by such date as the Secretary of State may have decided to extend the date to, or that the application has been dismissed by the Judicial Committee.

XI. (a) On receipt of the telegram referred to in the Note to X (a) above enquiries will be made by the India Office of the prisoner's solicitors whether they are prepared to proceed with the case, and on receipt of a reply the Secretary of State will fix a date by which the application must be lodged at the Privy Council Office. This date will be communicated to the prisoner's solicitors and telegraphed to the Provincial Government.

(b) When a petition has been lodged in the Privy Council, the India Office will inform the Provincial Government of the fact by ordinary mail.

(c) The India Office will inform the Provincial Government of developments in the Privy Council in any case which presents unusual features. This information should be communicated on receipt to the Secretary to the Governor General (Public).

(d) The India Office will communicate to the Provincial Government by telegram the result of an application to the Privy Council for special leave to appeal, and the Provincial Government will immediately repeat the telegram to the Secretary to the Governor General (Public). The India Office will also forward, in due course, a copy of the Order-in-Council to the Provincial Government by ordinary mail.

XII. (a) In furnishing proof that he has despatched the necessary papers to a Solicitor in England, a petitioner who intends to make application in forma pauperis under Rule 8 of the Procedure Rules of the Judicial Committee of the Privy Council, shall also furnish proof of despatch of an Affidavit or Affirmation made by himself stating that he is not worth £25 in the world except his wearing apparel, accompanied by a certificate of Counsel that the petitioner has reasonable grounds of appeal. Thereupon proof of the despatch of funds as required by Instruction X (a) shall not be required.

(b) The Affidavit or Affirmation of means referred to in the preceding clause (a) shall, if made in the regional language, be accompanied by a translation verified by affidavit or affirmation of the person making the translation.

(c) Such a petitioner and his advisers shall be informed that Solicitors in England are under no obligation to act in a case in forma pauperis. The Solicitor instructed by them must be instructed by registered ordinary mail and be required to inform the Assistant Solicitor, India Office, in writing, within twelve weeks of the date of intimation, whether he intends to act or not. If within this period the India Office receives no such consent, or receives intimation that the Solicitor instructed is unable to act, the Provincial Government will be informed by telegram and the execution will not be further delayed.

XIII. In every case where the India Office has been informed of the postponement of execution of a sentence owing to the convict's intention to apply to the Privy Council for special leave to appeal, the India Office must also be informed in due course by telegram that the sentence has been carried out or has been commuted, as the case may be.

(Vide Government Resolution, Home Department, No. 9005/3-II, dated the 30th April 1941.)

Published in the "*Bombay Government Gazette*," Part IV-C, dated the 26th June 1941.

APPELLATE SIDE.

Bombay, the 20th June 1941.

No. 2068.—In exercise of the powers conferred by section 41 of the Bombay Civil Courts Act, XIV of 1869, the Honourable the Chief Justice and Judges are pleased to make the following amendment in the Civil Manual, 1940, Volume 1:—

In sub-rule (xi) of paragraph 4 of Chapter XIII at page 156, substitute the following for the first sentence:—

"When an application for copies is made by an Advocate or a Pleader, no deposit need be made, but the Advocate or Pleader must give a written undertaking to be personally responsible for the payment in case the copy is not taken and paid for by his client."

Published in the "*Bombay Government Gazette*," Part IV-C, dated the 3rd July 1941

APPELLATE SIDE.

Bombay, 24th June 1941.

No. 2141.—The Honourable the Chief Justice and Judges are pleased to direct that the following additions be made in the Criminal Circular Order Book, 1931:—

I

Add the following as Criminal Circular No. III-D after Criminal Circular No. 111-C in Chapter V-A inserted by Supplementary Criminal Circular No. 66 at page 70:—

"111—D. Attention is invited to the forms* of warrants of commitment and remand prescribed in Government Resolution, Home Department, No. 3871/4, dated the 6th June 1941, under section 52 of the Bombay Children Act, 1924, for use by Courts when dealing with juveniles under the Bombay Children Act, 1924."

*See forms XXXII and XXXIII at page 181.

II

Add the following as forms XXXII and XXXIII below form No. XXXI in Chapter XIV at page 181:—

XXXII.

Form of Warrant of Commitment to a Certified School.

Case No. _____ of 19 ____

The boy/girl named*

aged about _____ years, who has been brought before me under _____
found to have committed the offence of _____

_____, is committed to the
Certified School, under section _____ of the Bombay Children Act, 1924,
for a period of _____

Dated _____

19 ____

Magistrate,
Court.

To

The Superintendent,

Certified School,

Child's Previous Record

Date.	Order passed.	Court.

XXXIII.

Form of Warrant on Remand.

To

The Officer in charge of Remand Home,
 The boy/girl named _____ has been
 brought before me under _____ and is sent
 charged before me with _____
 to you for safe custody.

2. You are requested to produce him/her before the
 Court at _____ a. m. on _____

19

Magistrate,

Date

19

Court.

(*Vide* Government Resolution, Home Department, No. 3871/4, dated
 the 6th June 1941.).

Bombay, 30th June 1941.

No. 2198.—The Honourable the Chief Justice and Judges are pleased
 to direct that the following be added at the end of paragraph 3 (1) at page
 161 in Chapter XIV of the Civil Manual, 1940, Volume I:—

"Provided that no report need be sent on March 31st in respect of
 any Judge upon whom the District Judge has already reported within the
 last six months."

Sind Acts, 1940-41.

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Sind Acts

The Bombay Prevention of Gambling (Sind Second Amendment) Act, 1940.

Received the assent of the Governor on the 19th December 1940 and is published in the *Sind Government Gazette*, Part IV, dated the 23rd January 1941.

Sind Act No. XIV of 1940.

An Act further to amend the Bombay Prevention of Gambling Act, 1887, in its application to the Province of Sind.

WHEREAS it is expedient further to amend the Bombay Prevention of Gambling Act, 1887, in its application to the Province of Sind, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Bombay Prevention of Gambling (Sind Second Amendment) Act, 1940.

Notes.

Object.—"Under section 260, Criminal Procedure Code, offences punishable with imprisonment for a term not exceeding six months can be tried in a summary way. As offences under the Prevention of Gambling Act particularly of gambling in cotton futures punishable under section 4 have considerably increased, it is considered necessary that cases where an offence has been committed for the first time be tried summarily so that they may be disposed of expeditiously. The maximum punishment for a first offence under section 4 of the Prevention of Gambling Act is seven months; It is therefore proposed to reduce it to six months so as to enable Magistrates to try such cases in a summary way. The proposed amendment is intended to achieve this object." [See Statement of Objects and Reasons, printed at page 387 of Part IV of the *Sind Government Gazette*, 1940].

2. *Amendment of section 4 of Bom. IV of 1887.*—In section 4 of the Bombay Prevention of Gambling Act, 1887, for the words "seven months" the words "six months" shall be substituted.

The Bombay Irrigation (Sind Amendment) Act, 1940.

Received the assent of the Governor on the 19th December 1940 and is published in the *Sind Government Gazette*, Part IV, dated the 23rd January 1941.

Sind Act No. XV of 1940.

An Act further to amend the Bombay Irrigation Act, 1879, in its application to the Province of Sind.

WHEREAS it is expedient further to amend the Bombay Irrigation Act, 1879, in its application to the Province of Sind, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Bombay Irrigation (Sind Amendment) Act, 1940.

Notes

Object.—"Section 61 of the Bombay Irrigation Act, 1879 (VII of 1879), provides that whoever voluntarily and without proper authority does certain acts prescribed in the said section shall, when such act shall not amount to the offence of committing mischief within the meaning of the Indian Penal Code, on conviction before a Magistrate, be punished for each such offence with fine which may extend to fifty rupees or with imprisonment for a term which may extend to one month, or with both.

2. The Sub-Committee appointed to suggest ways and means to stop 'Rasai', 'Lapo' and 'Cher' &c. in the Public Works Department recommended that the words "or with imprisonment for a term which may extend to one month, or with both" occurring at the end of this section should be deleted.

3. This section comes into operation only when the offence does not amount to mischief within the meaning of the Indian Penal Code, and on examining cases of this nature which have arisen in the last ten years it was observed that except in one singular case the offenders were challaned under the provisions of the Indian Penal Code. There is no necessity therefore for retaining the substantive sentence of imprisonment under this section. Hence this amendment." [Vide Statement of Objects and Reasons, printed at pages 510 and 511 of Part IV of *Sind Government Gazette*, 1940.]

2. **Amendment of section 61 of Bombay VII of 1879.**—In section 61 of the Bombay Irrigation Act, 1879, the words "or with imprisonment for a term which may extend to one month, or with both" shall be omitted.

The Bombay Co-operative Societies (Sind Third Amendment) Act, 1940.

Received the assent of the Governor on the 19th December 1940 and is published in the *Sind Government Gazette*, Part IV, dated the 23rd January 1941.

Sind Act No. XVI of 1940.

An Act further to amend the Bombay Co-operative Societies Act, 1925, in its application to the Province of Sind.

WHEREAS it is expedient further to amend the Bombay Co-operative Societies Act, 1925, in its application to the Province of Sind, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. **Short title.**—This Act may be called the Bombay Co-operative Societies (Sind Third Amendment) Act, 1940.

Notes.

Object.—"Under section 42 of the Bombay Co-operative Societies Act, 1925, a Co-operative Society may, with the approval of the Bombay Central Co-operative Institute, set aside certain proportion of its net profits for public, co-operative or charitable purposes. In view of the separation of this Province, it is proposed to confer the powers given under this section to the Bombay Central Co-operative Institute on the Registrar.

The words "Bombay Central Co-operative Institute" also occur in sections 52 and 53. It is proposed to substitute a reference to the "Sind Provincial Co-operative Institute" for the reference to the "Bombay Central Co-operative Institute" in these two sections." [Vide Statement of Objects and Reasons, printed at page 541 of Part IV of the *Sind Government Gazette*, 1940.]

2. *Amendment of section 42 of Bom. VII of 1925.*—In section 42 of the Bombay Co-operative Societies Act, 1925 (hereinafter called the said Act), for the words "Bombay Central Co-operative Institute" the word "Registrar" shall be substituted.

3. *Amendment of sections 52 and 53 of Bom. VII of 1925.*—In sections 52 and 53 of the said Act, for the words "Bombay Central Co-operative Institute" the words "Sind Provincial Co-operative Institute" shall be substituted.

The Sind Legislative Assembly (Removal of Disqualifications) (Amendment) Act, 1940.

Received the assent of the Governor on the 19th December 1940 and is published in the *Sind Government Gazette*, Part IV, dated the 23rd January 1941.

Sind Act No. XVII of 1940.

An Act further to amend the Sind Legislative Assembly (Removal of Disqualifications) Act, 1937.

WHEREAS it is expedient further to amend the Sind Legislative Assembly (Removal of Disqualifications) Act, 1937, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Sind Legislative Assembly (Removal of Disqualifications) (Amendment) Act, 1940.

Notes.

Object.—"A member of the Sind Legislative Assembly who is called up for service in any of His Majesty's Naval, Military or Air Forces will be regarded as holding an office of profit under the Crown in India and will accordingly be disqualified under clause (a) of sub-section (1) of section 69 of the Government of India Act, 1935. It is proposed to protect such members from the disqualification which they would otherwise incur." [Vide Statement of Objects and Reasons, printed at page 548 of Part IV of the *Sind Government Gazette*, 1940.]

2. *Amendment of section 2 of Sind Act III of 1937.*—In section 2 of the Sind Legislative Assembly (Removal of Disqualifications) Act, 1937, in the Schedule after entry 2 the following entry shall be inserted, namely:—

"3. A person serving in the Army in India Reserve of Officers, Indian Territorial Force, or any other branch of His Majesty's Naval, Military or Air Forces."

The Sind Shops and Establishments Act, 1940.

Received the assent of the Governor on the 19th December 1940 and is published in the *Sind Government Gazette*, Part IV, dated the 23rd January 1941.

Sind Act No. XVIII of 1940.

An Act to make provision for the regulation of hours of work in shops, commercial establishments, restaurants, eating houses, theatres and other establishments.

WHEREAS it is expedient to make provision for the regulation of hours of work in shops, commercial establishments, restaurants, eating houses, theatres and other establishments and for certain other purposes hereinafter specified; It is hereby enacted as follows:—

1. *Short title, extent and operation.*—(1) This Act may be called the Sind Shops and Establishments Act, 1940.

(2) It extends to the whole of the Province of Sind.

(3) It shall come into force in the first instance only in the City and Cantonments of Karachi and Drigh Road; but the Provincial Government may by notification in the Official Gazette direct that all or any of the provisions of this Act shall come into force in any other area on such date as may be specified in such notification.

CHAPTER I. Preliminary.

2. *Definitions.*—In this Act unless there is anything repugnant in the subject or context,—

(1) "Child" means a person who has not completed his twelfth year:

Provided that in any area for which a scheme of compulsory primary education has been sanctioned under the Bombay Primary Education Act, 1923, the expression "child" shall have the same meaning as it has in the said Act with reference to primary education.

(2) "Closed" means not open for the service of any customer.

(3) "Commercial Establishment" means an establishment which is not a shop but which does the business of advertising, commission, forwarding or commercial agency, or which is a clerical department of a factory or of any industrial or commercial undertaking or which is an insurance company, joint stock company, bank, broker's office, exchange or such other class of establishments as the Provincial Government may by notification in the Official Gazette declare to be a commercial establishment for the purposes of this Act.

(4) "Day" means the period of twenty-four hours beginning at midnight:

Provided that in the case of a person employed whose hours of work extend beyond midnight, day means the period of twenty-four hours beginning when such employment commences irrespective of midnight.

(5) "Employer" means a person having charge of or owning the business of an establishment to which this Act applies and includes the manager, agent or any other person acting in the general management or control of such shop, restaurant, theatre or establishment.

(6) "Establishment to which this Act applies" means a shop, commercial establishment, restaurant, eating house, theatre or any other place of public amusement or entertainment or any other establishment in respect of which a declaration is made under section 18.

(7) "Factory" means any premises which is a factory within the meaning of clause (j) of section 2 of the Factories Act, 1934, or which is declared to be a factory under section 5 of the said Act.

(8) "Inspector" means an inspector appointed under section 25 and includes the Chief Inspector.

(9) "Local authority" means a Municipality constituted under the City of Karachi Municipal Act, 1933, the Bombay District Municipal Act, 1901, or the Bombay Municipal Boroughs Act, 1925, or a local board constituted under the Bombay Local Boards Act, 1923.

(10) "Member of family of an employer" means the husband, wife or children, father or mother, brother, sister, nephew, niece, cousin, or aunt of an employer who lives with and is dependent on such employer.

(11) "Opened" means opened for the service of any customer.

(12) "Periods of work" means the time during which a person employed is at the disposal of the employer.

(13) "Person employed" means—

(i) in the case of a shop, a person wholly or principally employed in the shop in connection with the business of the shop;

(ii) in the case of a factory, a member of the clerical staff employed in such factory;

(iii) in the case of a commercial establishment other than a factory, a person wholly or principally employed in connection with the business of the establishment and includes a peon;

(iv) in the case of a restaurant or eating house, a person wholly or principally employed in the preparation or the serving of food or drink or in attendance upon a customer or in cleaning any part of the premises or utensils used on such premises or as a clerk or cashier; and

(v) in the case of a theatre or other establishment of public entertainment, a person employed as an operator, clerk, door-keeper, usher or in similar other capacity; but does not include the employer or a member of his family.

(14) "Prescribed" means prescribed by rules made under this Act.

(15) "Residential Hotel" means any premises in which a *bona fide* business is carried on for the supply of dwelling accommodation and meals on payment of a sum of money to a traveller or any other member of the public or class of the public.

(16) "Restaurant or Eating House" means any premises in which is carried on wholly or principally the business of the supply of meals or refreshments to the public or a class of the public for consumption on the premises but does not include a restaurant attached to a theatre.

(17) "Shop" means any premises where goods are sold either by retail or wholesale or both or where services are rendered to customers and includes offices, store-rooms, godowns or warehouses, whether in the same premises or otherwise, used in connection with such trade or business and tailoring and carpentry establishments but does not include a restaurant, eating house or a commercial establishment.

(18) "Theatre" includes any place intended principally or wholly for the representation of moving pictures or for dramatic performances.

(19) "Week" means the period of seven days beginning at midnight between Saturday and Sunday.

(20) "Young person" means a person who is not a child and has not completed his seventeenth year.

3. *References to time of day.*—References to the time of day in this Act are references to Indian Standard time which is five and a half hours ahead of Greenwich mean time.

4. *Act not applicable to certain persons and establishments.*—Nothing in this Act shall apply to—

(a) persons occupying positions of management or employed in a confidential capacity

(b) persons whose work is inherently intermittent such as a traveller, a canvasser, a watchman or a caretaker;

(c) persons exclusively engaged in preparatory or complementary work, such as clearing or forwarding clerks responsible for the despatch

of goods by rail or other means of communication and for customs formalities or messengers ;

(d) persons exclusively employed in the collection, delivery or conveyance of goods ;

(e) Government offices and offices of local authorities ;

(f) establishments for the treatment or the care of the sick, infirm, destitute or mentally unfit ;

(g) persons employed in such chemist's or druggist's shops as are approved by the Provincial Government by a general or special order in this behalf ;

(h) clubs and residential hotels ;

(i) stalls and refreshment rooms at railway stations, docks and wharves ;

(j) bazaars or fairs for the sale of work for charitable or other purposes from which no profit is derived ;

(k) shops dealing primarily in goods required for funeral purposes ; and

(l) any other establishment or class of establishments or person or class of persons which the Provincial Government may, by notification in the *Official Gazette*, exempt from the operation of this Act.

(2) Notwithstanding anything contained in sub-section (1) the Provincial Government may by notification in the *Official Gazette* direct that any of the persons or establishments specified therein shall not be exempt from the operation of this Act.

CHAPTER II.

SHOPS.

5. *Opening and closing hours of shops.*—(1) Save as provided by or under any other enactment for the time being in force, no shop shall on any day—

(a) be opened earlier than such hour as may be fixed by the Provincial Government by a general or special order in this behalf, and

(b) be closed later than 9 p. m. or such other earlier hour as may be fixed by the Provincial Government by a general or special order in this behalf :

Provided that any customer who was being served or was waiting to be served at such closing hour in any shop may be served in such shop during the quarter of an hour immediately following such hour.

(2) An order under sub-section (1) shall be passed by the Provincial Government after making an enquiry in the prescribed manner.

6. *Hawking prohibited after closing hour.*—Save as otherwise provided in this Act or by or under any other enactment, no person shall after the closing hour fixed under section 5 carry on in or adjacent to a street or a public place the sale of any goods :

Provided that nothing in this section shall apply to the sale of newspapers.

7. *Daily hours of work in a shop.*—(1) Subject to the provisions of sub-section (2), no person employed in any shop shall be required or allowed to work in such shop for more than nine and a half hours in any day :

Provided that any such person may be allowed to work in such shop for any period in excess of the limit fixed under sub-section (1), if such period does not exceed in the aggregate one hundred and twenty hours in any calendar year.

(2) Every person employed in any shop shall be given an interval for rest which shall not be less than half an hour for every four hours of continuous work or, at the option of the employer, not less than an hour for every six hours of continuous work.

8. *Spread over of periods of work.*—The periods of work and intervals of rest of a person employed in a shop shall be so arranged that they shall not be together spread over more than twelve hours in any day :

Provided that in cases where any shop is on any day entirely closed for a continuous period of not less than three hours between the opening and the closing time, the periods of work and intervals of rest may be spread over fourteen hours in that day.

9. *Holidays in a week.*—(1) Every person employed in a shop shall be given at least one day in a week as a holiday ;

Provided that nothing in this sub-section shall apply to any person whose total period of employment is less than six days.

(2) No deduction shall be made from the wages of any person employed in a shop on account of any holiday given to him under sub-section (1).

CHAPTER III.

COMMERCIAL ESTABLISHMENT.

10. *Opening and closing hours of commercial establishments.*—(1) Save as provided by or under any other enactment for the time being in force, no commercial establishment shall, on any day, be opened earlier than and closed later than such hour as may be fixed by a general or special order of the Provincial Government made under sub-section (2).

(2) The Provincial Government may by general or special order fix the time at which any commercial establishment or any class of such establishments shall be opened or closed in any local area. Such order shall be passed after making an inquiry in the prescribed manner.

11. *Weekly and daily hours of work in a commercial establishment.*—(1) Subject to the provisions of sub-section (2), no person employed in any commercial establishment shall be required or allowed to work in such establishment for more than 54 hours in any week :

Provided that any such person may be allowed to work in such establishment for more than 54 hours in any week during stock-taking, making of accounts, settlement or other prescribed occasions :

Provided further that the total number of hours for which such person is allowed to work in excess of the maximum number of hours prescribed for every week under this section does not exceed one hundred and twenty in any calendar year.

(2) Every person employed in any commercial establishment shall be given an interval for rest which shall not be less than half an hour for every four and a half hours of continuous work or, at the option of the employer, not less than an hour for every six hours of continuous work.

12. *Spread over of periods of work.*—The periods of work and intervals of rest of a person employed in a commercial establishment shall be so arranged that they shall not together be spread over more than twelve hours in a day :

Provided that the Provincial Government may by rules made in this behalf fix, on not more than six days in a calendar year, any period in excess of the period prescribed under this section for which on account of stock taking, making of accounts, settlements or other prescribed occasions the person employed may be required to work.

13. Holiday in a week.—(1) Every person employed in a commercial establishment shall be given at least one day in a week as a holiday :

Provided that nothing in this sub-section shall apply to any person whose total period of employment is less than six days.

(2) No deduction shall be made from the wages of any person employed in a commercial establishment on account of any holiday given to him under sub-section (1).

CHAPTER IV.

RESTAURANTS, EATING HOUSES, THEATRES OR OTHER PLACES OF PUBLIC AMUSEMENT AND ENTERTAINMENT.

14. Restaurants, eating houses not to sell goods of the kind sold in the shops after the closing hour of the shops.—After the hour fixed for closing of shops under section 5, no goods of the kind sold in such shops shall be sold in any restaurant, eating house, theatre or any other place of public amusement or entertainment except for consumption on the premises.

15. Daily hours of work in restaurant, etc.—(1) Subject to the provisions of sub-section (2), no person employed in any restaurant, eating house, or theatre or any other place of public amusement or entertainment shall be required or allowed to work in such restaurant, eating house or theatre or such place for more than ten hours in any day.

(2) Every such person shall be given an interval for rest which shall not be less than half an hour for every six hours of continuous work or, at the option of the employer, not less than a hour for every eight hours of continuous work.

16. Spread over of periods of work.—The periods of work and intervals of rest of a person employed in a restaurant, eating house, theatre or any other place of public amusement or entertainment shall be so arranged that they shall not together be spread over more than fourteen hours in any day.

17. Holiday in a week.—(1) Every person employed in a restaurant eating house, theatre or any other place of public amusement or entertainment shall be given at least one day in a week as a holiday :

Provided that nothing in this sub-section shall apply to any person whose total period of employment is less than six days.

(2) No deduction shall be made from the wages of any person employed in a restaurant, eating house, theatre or a place of public amusement or entertainment on a account of any holiday given to him under sub-section (1).

CHAPTER V.

OTHER ESTABLISHMENTS.

18. Power to Provincial Government to apply provisions of Act to other establishments.—(1) Notwithstanding anything contained in this Act the Provincial Government may, by notification in the Official Gazette, declare any establishment or class of establishments to which this Act does not for the time being apply to be an establishment or class of establishments for the purposes of this Act.

(2) On such declaration such establishment or class of establishments shall be deemed to be an establishment or class of establishments to which this Act applies and all or any of the provisions of this Act with such adaptation or modification as may be specified in such declaration shall apply to such establishment or class of establishments.

CHAPTER VI.

PROVISIONS FOR CHILDREN AND YOUNG PERSONS.

19. *No child to work in any establishment.*—No child shall be allowed to work in any establishment to which this Act applies.

20. *Young persons to work between 6 a. m. and 7 p. m. only.*—No young person shall be allowed to work in any establishment to which this Act applies before 6 a. m. and after 7 p. m.

21. *Hours of work of young person limited to 42 hours in a week and 8 per day.*—(1) Notwithstanding anything contained in this Act, no young person shall be allowed to work in any establishment to which this Act applies for more than forty-two hours in a week or for more than eight hours in a day.

(2) No such person shall be allowed to work in such establishment for more than four hours in any day unless he has had an interval of rest for at least half an hour.

CHAPTER VII.

ENFORCEMENT AND PENALTIES.

22. *Powers and duties of local authorities.*—Save as otherwise provided in this Act it shall be the duty of every local authority to enforce, within the area subject to its jurisdiction, the provisions of this Act, subject to such supervision of the Provincial Government as may be prescribed :

Provided that in respect of the areas not subject to the jurisdiction of any local authority, it shall be the duty of the Provincial Government to enforce the said provisions.

23. *Power of Provincial Government to provide for performance of duties on default by local authority.*—(1) If any local authority makes default in the performance of any duty imposed by or under this Act, the Provincial Government may appoint some person to perform it and may direct that the expense of performing it with a reasonable remuneration to the person appointed to perform it shall be paid forthwith by the local authority.

(2) If the expense and remuneration are not so paid, the Provincial Government may notwithstanding anything contained in any law relating to the municipal fund or local fund or any other law for the time being in force, make an order directing the bank in which any moneys of the local authority are deposited or the person in charge of the Local Government Treasury or of any other place or security in which the moneys of the local authority are deposited to pay such expense and remuneration from such moneys as may be standing to the credit of the local authority in such bank or may be in the hands of such person or as may from time to time, be received from or on behalf of the local authority by way of deposit by such bank or person; and such bank or person shall be bound to obey such order. Every payment made pursuant to such order shall be a sufficient discharge to such bank or person from all liability to the local authority in respect of any sum or sums so paid by it or him out of the moneys of the local authority so deposited with such bank or person.

24. *Expenses of local authority to be paid out of its fund.*—Notwithstanding anything contained in any enactment in regard to any municipal or local fund, all expenses incurred by a municipality or a local board under and for the purposes of this Act shall be paid out of the municipal or local fund, as the case may be.

25. Appointment of Inspectors.—(1) Every local authority shall appoint a sufficient number of persons with the prescribed qualifications as Inspectors for the area subject to its jurisdiction as it may deem fit for the purpose of carrying out the provisions of this Act.

(2) In areas which are not subject to the jurisdiction of any local authority, the Provincial Government shall appoint Inspectors with the prescribed qualifications.

26. The Commissioner of Labour, Sind, shall be the *ex-officio* Chief Inspector for the whole of the Province. All Inspectors appointed by local authorities shall be under the supervision of the Chief Inspector and all Inspectors appointed by the Provincial Government shall be under his supervision and control.

27. Powers and duties of Inspectors.—Any Inspector may at all reasonable times enter into any place which is or which he has reason to believe is an establishment to which this Act applies with such assistants being persons in the service of the Crown or of the local authority, as the case may be, and make such examination of the premises and of the prescribed registers, records and notices, as may be prescribed.

28. Inspectors to be public servants.—Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

29. Penalty for obstructing Inspector, etc.—Any person who wilfully obstructs an Inspector in the exercise of any power conferred on him under this Act or who fails to comply with a lawful direction made by an Inspector shall, on conviction, be punishable with fine which may extend to Rs. 250.

30. Maintenance of registers and records and display of notices.—Subject to the general or special orders of the Provincial Government, an employer shall maintain such registers and records and display such notices as may be prescribed for carrying out the provisions of this Act.

31. Penalties for offences.—(1) Any employer who contravenes the provisions of sections 5 to 21 (both inclusive) and 34 shall, on conviction, be punishable with fine which may extend to Rs. 25 for the first offence and to Rs. 250 for every subsequent offence after his conviction for the first offence.

(2) Whoever contravenes the provisions of section 6 shall, on conviction, be punishable with fine which may extend to Rs. 10 for the first offence and to Rs. 100 for any subsequent offence after his conviction for the first offence.

CHAPTER VIII.

MISCELLANEOUS.

32. Exemption.—The Provincial Government may, by notification in the Official Gazette, suspend the operation of all or any of the provisions of this Act for such period and subject to such conditions as it deems fit on account of any prescribed holidays or occasion.

33. Wages for over-time work.—Where any person employed in any establishment to which this Act applies is required to work in excess of the limit of hours of work he shall be entitled in respect of the over-time work to wages at the rate of $1\frac{1}{2}$ times his ordinary rate of wages.

Explanation.—For the purposes of this section—

(1) the expression "limit of hours of work" shall mean—

(a) in case of persons employed in a shop nine and half hours in each day;

(b) in case of persons employed in a commercial establishment 54 hours in any week;

(c) in case of persons employed in a restaurant, eating house, theatre or any other place of public amusement or entertainment ten hours in each day; and

(d) in case of persons employed in any other establishment such hours as may be prescribed; and

(2) the expression "ordinary rate of wages" shall mean such rate of wages as may be calculated in the manner prescribed.

34. Leave with pay.—(1) A person employed in any establishment to which this Act applies shall be entitled to fifteen days' leave during every twelve months of service rendered by him.

(2) No deduction shall be made from the wages of any person on account of any leave given to him under sub-section (1).

(3) Leave which is not availed of within 2 months of the close of the period during which it has been earned shall be deemed to have lapsed.

35. Rules.—(1) The Provincial Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision such rules may be made for all or any of the following matters, namely:—

(i) the manner of making inquiry under sub-section (2) of section 5;

(ii) the manner of making inquiry under sub-section (2) of section 10;

(iii) the occasions on which the hours of work may exceed 54 in any week under section 11;

(iv) fixing excess period for work under section 12;

(v) the supervision which the Provincial Government shall exercise over a local authority under section 22;

(vi) the qualifications of Inspectors under section 25;

(vii) the examination to be made of premises and of prescribed registers, records and notices under section 27;

(viii) the registers and records to be maintained and the notices to be displayed under section 30;

(ix) the period for which, the conditions subject to which and the holidays and occasions on which, the operation of the provisions of this Act may be suspended under section 32; and

(x) the limit of hours of work under clause (1) (d) and the manner of calculating the ordinary rate of wages under clause (2) of the Explanation to section 33;

(3) The rules made shall be subject to the condition of previous publication and when so made shall be deemed to be part of this Act.

(4) The rules may provide that any contravention thereof shall, on conviction, be punishable with fine which may extend to Rs. 50.

(5) Rules made under this Act shall be laid upon the table of the Sind Legislative Assembly at the session of the said Assembly next following and shall be liable to be modified or rescinded by a resolution of the

12 THE BOMBAY DISTRICT POLICE (SIND AMENDMENT) ACT, 1940.

said Assembly and the modification or rescission so made shall, after publication by notification in the Official Gazette, be deemed to have come into force.

36. Bye-laws.—Save in regard to the matters for which provision is made for rules under section 35, a local authority may, subject to the previous sanction of the Provincial Government, make bye-laws not inconsistent with this Act or rules thereunder for the purpose of carrying out the provisions of this Act.

37. Rights and privileges under other law, etc., not affected.—Nothing in this Act shall affect any rights or privileges which any person employed in any establishment to which this Act applies is entitled to at the date this Act comes into force under any other law, contract, custom or usage applicable to such establishment if such rights or privileges are more favourable to him than those to which he would be entitled under this Act.

The Bombay District Police (Sind Amendment) Act, 1940.

Received the assent of the Governor on the 20th December 1940, and is published in the *Sind Government Gazette*, Part IV, dated the 23rd January 1941.

Sind Act No. XIX of 1940.

An Act to amend the Bombay District Police Act, 1890, in its application to the Province of Sind.

WHEREAS it is expedient to amend the Bombay District Police Act, 1890, in its application to the Province of Sind, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. Short title.—This Act, may be called the Bombay District Police (Sind Amendment) Act 1940.

Notes.

Object.—"Section 46 of the Bombay District Police Act, 1890, empowers the District Magistrate, Karachi, to direct any person, who, not having been born in Karachi district, has been convicted more than twice of certain offences punishable under the Indian Penal Code, to remove himself from the district and not to enter it again. In order to check the growing evil of gambling, particularly, of gambling in cotton futures, it is proposed that the District Magistrate should have the same powers when the person concerned has been convicted more than twice of offences punishable under the Bombay Prevention of Gambling Act, 1887. The Bill makes the necessary amendment. [Vide Statement of Objects and Reasons printed at page 294 of Part IV of the *Sind Government Gazette*, 1940.]

2. Amendment of section 46 of Bombay IV of 1890.—In section 46, sub-section (6) of the Bombay District Police Act, 1890, for clause (iii) the following shall be substituted, namely:—

"(iii) In sub-section (2)—

(a) after the words 'Indian Penal Code' the words 'or of more than two offences punishable under the Bombay Prevention of Gambling Act, 1887, arising out of the form of gambling commonly known as *American futures*' shall be inserted;

(b) the words beginning with the words 'A copy' and ending with the words 'for the City of Bombay' shall be deleted".

The Sind Opium Smoking Act, 1940.

Received the assent of the Governor on the 20th December 1940 and is published in the *Sind Government Gazette*, Part IV, dated the 23rd January 1941.

Sind Act No. XX of 1940.

An Act to provide for the prohibition of opium smoking.

WHEREAS it is expedient to prohibit the smoking of opium; It is hereby enacted as follows:—

CHAPTER I.**PRELIMINARY.**

1 *Short title, extent and commencement.*—(1) This Act may be called the Sind Opium Smoking Act, 1940.

(2) It extends to the whole of the Province of Sind.

(3) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

Notes.

Object—"The object of the Bill is to stop opium smoking except in the case of addicts who will be exempted subject to certain conditions to be prescribed by rules.

Opium has to be specially prepared before it can be used for smoking. The sale of prepared opium is at present prohibited under section 4 (1) (c) of the Dangerous Drugs Act and the manufacture and possession thereof by individuals are regulated by rules made by the Provincial Government under section 4 (2) of the said Act. There is however no provision in the Dangerous Drugs Act under which opium smoking could be regulated or suppressed.

The following are the main provisions of the Bill:—

Clause 3 imposes a penalty for smoking opium or possessing an instrument of smoking.

Clause 4 penalises smoking of opium in company.

Clause 5 explains what is an "opium smoking assembly" and clause 8 prescribes a penalty for being member of such an assembly.

Clause 9 imposes a penalty for opening, keeping or having charge of a place used for the purposes of an opium smoking assembly.

The rest of the provisions are ancillary and have been inserted for carrying into effect the main provisions referred to above." [Vide Statement of Objects and Reasons, printed at page 509 of Part IV of the *Sind Government Gazette*, 1940.]

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) "opium" has the same meaning as is assigned to it in the Opium Act, 1878, and includes prepared opium as also *chandu*, *madat*, *buffa*, opium dross or scrappings from the opium pipe and every other preparation or admixture of opium which may be used for smoking;

(b) "prepared opium" means any product of opium obtained by any series of operations designed to transform opium into an extract suitable for smoking and the dross or other residue remaining after opium is smoked;

(c) "place" includes a building, house, enclosure, shop, booth, tent, vessel, raft and vehicle, and any part thereof;

(d) "Collector" means the Chief Officer in charge of the revenue administration of a district, and includes any officer whom the Provincial

Government may, by notification, declare or appoint to be a Collector for the purposes of this Act;

(g) "Commissioner" means the Revenue Commissioner for Sind;

(f) "duly empowered" means duly empowered by the Provincial

Government by a general or special order;

(g) "instrument of smoking" means any pipe or apparatus used for the purpose of smoking or preparing opium for smoking purposes.

CHAPTER II.

OFFENCES AND PENALTIES.

3. *Penalty for smoking opium or possessing an instrument of smoking.*—(1) Except as hereinafter provided any person smoking opium or possessing an instrument of smoking shall be punished with fine which may extend to fifty rupees or imprisonment of either description for a term which may extend to one month, or with both.

(2) The Provincial Government or any officer duly empowered may on such terms and subject to such conditions as may be prescribed by rules made under this Act exempt from the operation of sub-section (1) any person who, at the date of the commencement of this Act, is addicted to the smoking of opium.

4. *Penalty for smoking opium in company.*—If two or more persons smoke opium in company, each of them shall be punished with imprisonment of either description for a term which may extend to one month or with fine which may extend to fifty rupees or with both.

Explanation.—A man and his wife smoking opium together shall not be deemed to be smoking in company within the meaning of this section.

5. *Opium-smoking assembly.*—An assembly of two or more persons is designated an opium-smoking assembly if the common object of the persons composing that assembly is to smoke opium or to prepare opium for smoking purposes.

Explanation 1.—An assembly which was not an opium-smoking assembly when it assembled may subsequently become such an assembly.

Explanation 2.—A man and his wife shall not be deemed to be an opium-smoking assembly within the meaning of this section, even if their common object be to smoke opium or to prepare opium for smoking purposes.

6. *Member of opium-smoking assembly.*—Whoever being aware of facts which render an assembly an opium-smoking assembly intentionally joins that assembly for the purpose of smoking opium, or of preparing opium for smoking or continues therein for that purpose shall be deemed to be a member of that assembly.

7. *Presumption raised by presence of opium and opium-smoking apparatus.*—The presence of any opium and of any instrument of smoking in any place where two or more persons are assembled shall be held sufficient to raise a presumption that such persons have assembled at such place for the purpose of smoking opium or of preparing opium for smoking purposes.

8. *Penalty for being member of opium-smoking assembly.*—Whoever is a member of an opium-smoking assembly shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

9. Penalty for opening, keeping or having charge of place used for such assembly.—Whoever opens, keeps or uses any place or permits any place to be opened, kept or used for the purposes of an opium-smoking assembly, or has the care or management of, or in any way assists in conducting the business of, any place used or kept for the purposes aforesaid shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

10. Enhancement of punishment on second conviction.—Whoever having been previously convicted of an offence under section 3, or section 8 or section 9 is again convicted of an offence under any of these sections, shall be liable to twice the punishment which might be imposed on a first conviction.

11. Security for abstaining from offences.—(1) Whenever any person is convicted of an offence punishable under this Chapter, and the Court convicting him is of opinion that it is necessary to require such person to execute a bond for abstaining from the commission of offences punishable under this Chapter, the Court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for abstaining from the commission of such offences during such period, not exceeding three years, as it thinks fit to fix.

(2) The bond shall be in the form contained in the Schedule annexed to this Act and the provisions of the Code of Criminal Procedure, 1898, shall, in so far as they are applicable, apply to all matters connected with such bond, as if it were a bond to keep the peace ordered to be executed under section 106 of that Code.

(3) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

(4) An order under this section may also be made by an Appellate Court or by the Chief Court of Sind when exercising its power of revision.

CHAPTER III.

PROCEDURE.

12. Power to issue warrants.—The Commissioner, Collector or any officer of the Excise Department duly empowered or a Magistrate authorised under section 26 to take cognizance of offences under this Act may issue a warrant for the arrest of any person whom he has reason to believe, to have committed an offence under this Act, or for the search, whether by day or by night, of any place in which he has reason to believe that an offence under this Act has been, or is being or is likely to be committed, or in which opium or an instrument of smoking is kept or concealed.

13. Power of entry, search and arrest by certain officers.—The Commissioner, Collector or any officer duly empowered, who has reason to believe that an offence under Chapter II has been, or is being or is likely to be, committed in any place, may—

(a) enter such place by day or by night with any person whose assistance he may consider necessary;

(b) search any such place in which he has reason to believe that any opium or instrument of smoking is kept or concealed;

(c) detain and search, and, if he thinks proper, arrest any person found in such place or whom he has reason to believe to have committed an offence punishable under Chapter II and

(d) seize all opium and instruments of smoking which may be found in such place or on or about such person.

14. *Mode of making searches and arrests.*—(1) The provisions of the Code of Criminal Procedure, 1898, shall apply so far as they are not inconsistent with the provisions of this Act, to all warrants issued and arrests and searches made under this Act.

(2) All such warrants shall be executed by a police officer, or an officer of the Excise Department duly empowered in this behalf or if the officer issuing the warrant deems fit by any other person.

15. *Arrest of persons obstructing officers in execution of duties under the Act.*—The Commissioner, Collector or any officer duly empowered may arrest without an order from a Magistrate and without warrant any person who obstructs him in the execution of his duty under this Act, or who has escaped or attempts to escape from custody in which he has been or is lawfully detained under this Act.

16. *Disposal of persons arrested and of articles seized.*—(1) Every person arrested and articles seized under a warrant issued under section 12 shall be forwarded without delay to the authority by whom the warrant was issued and every person arrested and article seized under section 13 or section 15 shall be forwarded without delay to—

(a) the nearest officer of the Excise Department empowered under section 18, or

(b) the officer in charge of the nearest police station within the meaning of the Code of Criminal Procedure, 1898.

(2) The authority or officer to whom any person or article is forwarded under this section shall, with all convenient despatch, take such measures as may be necessary for the disposal, according to law, of such person or article.

17. *Refusal to give name and residence.*—(1) When any person who, in the presence of any officer of such rank as the Provincial Government may, by general or special order, specify in this behalf, has committed or has been accused of committing an offence under this Act, refuses on demand of such officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false he may be arrested by such officer in order that his name and residence may be ascertained.

(2) When the correct name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a Magistrate if so required:

Provided that if such person is not resident in British India the bond shall be secured by a surety or sureties residing in British India.

(3) Should the correct name and residence of such person not be ascertained within 24 hours from the time of arrest, and should he fail to execute the bond, or, if he is so required, to furnish sufficient sureties, he shall be forthwith forwarded to the nearest Magistrate having jurisdiction.

18. *Certain officers empowered to investigate offences under the Act.*—(1) The Commissioner, Collector and any officer of the Excise Department duly empowered in this behalf shall, within the area for which he is appointed, have power to investigate all offences punishable under this Act.

(2) Every such officer shall in the conduct of such investigation exercise the powers conferred by the Code of Criminal Procedure, 1898, upon an officer in charge of a police station for the investigation of a cognisable offence:

Provided that—

(a) if such officer is of opinion that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of an accused to a Magistrate or that the person arrested may be discharged with a warning, such officer shall release him on his executing a bond, with or without sureties, to appear if and when so required, before a Magistrate and shall make a full report of the case to his superior officer, if any, and be guided by the order which he shall receive on such report:

(b) the powers of such officer other than the Commissioner or Collector shall be subject to such further modifications or restrictions as the Provincial Government may determine.

19. *Bail and security*.—When any person arrested under this Act is prepared to furnish bail he shall be released on bail or, at the discretion of the officer making the arrest, on his own bond.

20. *Aid to excise officers*.—All village officers, all village servants and all officers of the Police, Forest and Revenue Departments shall be bound—

(a) to give immediate information to an Excise Officer of the commission of any offence, and of the intention or preparation to commit any offence under this Act which may come to their knowledge;

(b) to take all reasonable measures in their power to prevent the commission of any such offence which they may know or have reason to believe is about to be committed;

(c) to assist any Excise Officer in carrying out the provisions of the Act.

21. *Duty of owners and occupiers of land to report offences*.—Every owner or occupier of a place and the agent of any such owner or occupier in which there shall be any preparation or admixture of opium which may be used for smoking shall in the absence of reasonable excuse be bound to give notice of the same to a Magistrate or to an officer of the Departments referred to in the foregoing section immediately the same shall have come to his knowledge.

22. *Penalty for neglecting to assist officers acting under the Act*.—Any officer or person mentioned in sections 20 and 21 who without lawful excuse neglects or refuses to give information or to take preventive measures or to give assistance or to give notice to any of the officers mentioned in section 20 or section 21 in the manner required by those sections shall, on conviction, be punished with fine which may extend to Rs. 500.

23. *Penalty for vexatious search or arrest*.—Any officer empowered under this Act who—

(a) without reasonable ground of suspicion, enters or searches, or causes to be searched any place, or

(b) vexatiously and unnecessarily seizes the property of any person on the pretext of seizing or searching for anything liable to confiscation under this Act, or

(c) vexatiously and unnecessarily detains, searches or arrests any person shall, on conviction, be punishable with imprisonment of either description for a term which may extend to one month with fine which may extend to rupees five hundred or with both.

24. Things liable to confiscation.—Whenever any offence under this Act has been committed, all opium and instruments of smoking found in the place or with the persons forming an opium smoking assembly, together with the receptacles, packages or coverings, shall be liable to confiscation.

25. Procedure in making confiscation.—(1) In the trial of offences under this Act, whether the accused is convicted or acquitted, the court shall decide whether any article seized under this Act is liable to confiscation under the preceding section, and if it decides that the article is so liable, it may order its confiscation accordingly.

(2) When any article seized under this Act appears liable to confiscation under the preceding section but the person who committed the offence in connection therewith is not known or cannot be found, the Collector or other officer duly empowered in this behalf may inquire into and decide such liability and may order confiscation accordingly :

Provided that no order of confiscation of an article shall be made until the expiry of one month from the date of seizure or without hearing any person who may claim any right thereto and the evidence, if any, which he produces in support of his claim :

Provided further that if any such article, other than opium, is liable to speedy and natural decay, or if the Collector or other officer is of opinion that its sale would be for the benefit of its owner, he may at any time direct it to be sold, and the provisions of this sub-section shall, as nearly as may be practicable, apply to the net proceeds of the sale.

(3) Any person not convicted who claims any right to property which has been confiscated under this section may appeal to the Court of Session against the order of confiscation.

26. Cognizance of offences.—No Magistrate shall take cognizance of an offence punishable under this Act except on the complaint or report of the Collector or an officer of the Excise Department not below the rank of an Assistant Inspector or of the Police Department not below the rank of a Sub-Inspector.

CHAPTER IV.

MISCELLANEOUS.

27. Bar of certain suits.—No suit shall lie in any civil court against the Province of Sind or any Collector or officer of the Excise or Police Department for damages for anything in good faith done or ordered to be done in pursuance of this Act or the rules made thereunder.

28. Limitations of suits and prosecutions.—No suit shall be instituted against the Province of Sind and no prosecution or suit shall lie against any officer in respect of anything done or alleged to have been done in pursuance of this Act, unless such suit or prosecution has been instituted within six months of the date of the act complained of :

Provided that nothing herein contained shall apply to any prosecution instituted by or under the order of the Provincial Government or to any complaint made under section 476 or 476A or section 476B of the Code of Criminal Procedure 1898.

29. Tender of pardon to accused person turned approver.—(a) Whenever two or more persons are prosecuted for any offence under this Act, the Magistrate may, if, for reasons to be recorded by him, he thinks fit, tender to any accused a pardon on condition of his making a full and true disclosure of all facts connected with the offence.

(b) Such accused person shall, on accepting the tender, be a competent witness in the case and shall not be liable to punishment so long as the pardon remains in force.

30. Delegation of powers—The powers conferred on the Commissioner or Collector under this Act may, subject to the general or special orders of the Provincial Government, be delegated by the Commissioner or Collector, in whole or in part, to any subordinate officer,

31. Power to make rules.—(1) The Provincial Government may make rules to carry out the objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may—

(a) regulate the disposal of things confiscated under this Act ;

(b) prescribe and regulate the payment of rewards out of fines imposed under this Act; and

(c) provide for any other matter for which there is no provision or there is insufficient provision in this Act and for which provision is, in the opinion of the Provincial Government, necessary for giving effect to the provisions of this Act.

(3) All rules made under this section shall be subject to the conditions of being made after previous publication.

(4) Rules made under this section shall be laid upon the table of the Sind Legislative Assembly at the session of the said Assembly next following and shall be liable to be modified or rescinded by a resolution of the said Assembly and the modification or rescission so made shall, after publication by notification in the *Official Gazette*, be deemed to have come into force.

32. Certain officers to be public servants.—All officers empowered under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

SCHEDULE.

BOND TO ABSTAIN FROM THE COMMISSION OF OFFENCES UNDER THE SIND OPIUM SMOKING ACT, 1940.

(Section 11.)

Whereas I (name) inhabitant of (place), have been called upon to enter into a bond to abstain from the commission of offences under sections 3, 4, 5, 6, 7, 8, 9 and 10 of the Sind Opium Smoking Act, 1940, for the term of

I hereby bind myself not to commit any such offence during the said term and, in case of my making default therein, I hereby bind myself to forfeit to His Majesty the King Emperor of India, the sum of rupees

Dated this day of 19

(Signature.)

(Where a bond with sureties is to be executed, add—)

We do hereby declare ourselves sureties for the abovementioned that he will abstain from the commission of offence under sections 3, 4, 5, 6, 7, 8, 9 and 10 of the Sind Opium Smoking Act, 1940, during the said term; and, in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to His Majesty the King-Emperor of India, the sum of rupees

Dated this day of 19

(Signature.)

The Sind Wild Birds and Wild Animals Protection Act, 1940.

Received the assent of the Governor on the 20th December 1940 and is published in the *Sind Government Gazette*, Part IV, dated the 23rd January 1941.

Sind Act No. XXI of 1940.

An Act to make better provision for the protection and preservation of certain wild birds and wild animals in the Province of Sind.

WHEREAS it is expedient to make better provision for the protection and preservation of certain wild birds and wild animals in the Province of Sind; It is hereby enacted as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Sind Wild Birds and Wild Animals Protection Act, 1940.

(2) It extends to the whole of the Province of Sind.

(3) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint in this behalf.

(4) On the commencement of this Act the Wild Birds and Animals Protection Act, 1912, shall stand repealed.

Notes.

Object.—“The object of this Bill is to preserve the small game of Sind from indiscriminate shooting and netting by prescribing an additional licence for killing or capturing the birds and animals specified in the schedule. Although there are at present rules to regulate hunting and shooting in the reserved and protected forests of Sind, the small game for which Sind is famous is mostly shot or captured outside forest limits and no protection exists for them except the declaration of a close season which is intended to prohibit shikar at the time of breeding.

The effect of this Bill will be that, although any person who holds a gun licence for sport, protection and display will be entitled to obtain the additional licence, it is expected that it will be taken out by those only who are really interested in shikar and not by the many licence holders who keep guns mainly for protection. The netting and selling of birds will also be regulated and the commercial exploitation of the wild game of Sind will be checked.” [Vide Statement of Objects and Reasons, printed at page 526 of Part IV of the *Sind Government Gazette*, 1940.]

2. *Application of Act.*—This Act shall, subject to the provisions hereinafter appearing, apply to all wild birds and wild animals whether in their wild state or in captivity.

3. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(i) ‘animal’ means an animal which suckles its young;

(ii) ‘licence’ means a licence granted under this Act;

(iii) the expression ‘wild bird or wild animal’ shall be deemed to include the flesh thereof and, in the case of a wild bird, the eggs thereof.

4. *Closing time.*—It shall not be lawful to kill or to capture, or to possess, whether dead or alive, or to buy or to sell or to offer for sale any wild bird or wild animal, except in the manner and to the extent hereinafter provided:—

(i) the wild birds or wild animals specified in Schedule I may be killed, captured, possessed, bought, sold or offered for sale throughout the year;

(ii) the wild birds or wild animals specified in Schedule II—

(a) may be killed, captured, possessed, bought, sold or offered for sale during the period specified in the said schedule under a licence and in the manner and to the extent provided thereby;

(b) may be bought or possessed without a licence during the period specified in the said schedule for purposes of consumption, provided that they have been obtained from a licensee;

(iii) the wild birds or wild animals specified in Schedule III may be possessed throughout the year as pets or for use as decoys in the manner and to the extent specified in the said schedule;

Provided that nothing in this section shall be deemed to prohibit—

(a) the possession of the eggs of any birds by a *bona fide* collector; or

(b) the possession by any person of skins, antlers, horns, or other trophies; or

(c) the possession by any person of the off-spring of any wild bird or wild animal which is bred in captivity, subject to the limits specified in Schedule III:

Provided further, that any person who holds a licence issued under the Indian Arms Act, 1878, and rules thereunder, for purposes of sport, or who is exempt from the provisions of that Act, shall be entitled to purchase a licence under this Act from any Government treasury or sub-treasury, stamp vendor, or any such other person or place as may be prescribed by rules made under this Act.

5. Person in possession of any wild bird or wild animal to produce his licence when required.—(1) A Government officer authorised in this behalf may require any person in possession of any wild bird or wild animal specified in Schedule II to produce his licence on demand. If such person is unable to produce his licence on the spot, the Government officer may examine any weapons in his possession, note down their identifying marks and require such person to give his name and address and to produce his licence within fifteen days.

(2) Any person failing or refusing to comply with any direction given under sub-section (1) shall be deemed to have committed a breach of the provisions of this Act.

6. Prohibition on export.—No wild bird or wild animal specified in Schedule II shall be exported alive from the Province of Sind to any place outside the Province without an export permit issued by a District Magistrate.

7. Killing etc. in certain areas prohibited.—Notwithstanding anything hereinafter contained no person, whether possessing a licence or not, shall net, trap, snare or kill any wild bird or wild animal specified in Schedule II within the local limits of any municipality, cantonment, notified area, sanitary board or sanitary committee.

8. Power to add to or exclude from schedules.—The Provincial Government may, by notification in the *Official Gazette*, which may apply either to the whole or to any part of the Province—

(i) (a) add to Schedules I and II,

(b) add to or exclude from Schedule II, any wild bird or wild animal subject to such conditions as it may impose in each case;

(ii) alter the period during which any wild bird or wild animal specified in Schedule II may be killed or captured;

(iii) alter the number of wild birds or wild animals specified in column 5 of Schedule III, which may be kept as pets or for use as decoys.

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ACT, 1940.

9. *Power to grant exemptions.*—Where the Provincial Government is of opinion that such a course is desirable in the interests of scientific research or for the better protection or preservation of crops or other property, it may grant to any person a licence subject to such restrictions or conditions as it may impose, entitling the holder thereof to do any act which is by this Act declared to be unlawful.

10. *Power to declare any area to be sanctuary for wild birds and wild animals.*—The Provincial Government may, by notification, declare any area which is the property of Government and, subject to the consent of the owner and to such conditions as may be determined by mutual agreement, any area which is private property to be a sanctuary for wild birds or wild animals, or both, and it shall be unlawful for any person to kill or capture any wild bird or wild animal, as the case may be, within such area at any time.

11. *Penalties.*—(1) Whoever commits a breach of the provisions of this Act or of any rule made thereunder, shall be punishable with fine which may extend to fifty rupees or in default with imprisonment of either description which may extend to one month.

(2) Whoever, having already been convicted of an offence under this Act or any rule made thereunder, is again convicted thereunder, shall, on every subsequent conviction, be punishable with fine which may extend to five hundred rupees or in default with imprisonment of either description which may extend to three months, and shall, in addition to the punishment provided for the offence, be liable to confiscation of the licence.

(3) On conviction of any person for any offence under this Act the convicting Magistrate may, in addition to any other penalty imposed, order any net, trap or snare used in the commission of such offence, to be destroyed or to be sold and converted into money and the proceeds thereof forfeited.

12 *Jurisdiction inferior to that of a Magistrate of the second class excluded.*—No court inferior to that of a Magistrate of the second class shall try any offence under this Act.

13. *Persons who may lodge complaints.*—No court shall take cognizance of any offence under this Act except on the complaint of a police officer not below the rank of Sub-Inspector or of any other person or class of persons authorised by Government in this behalf.

14. *Savings.*—Nothing in this Act shall be deemed to apply to—

(i) the killing or capture in good faith of any wild bird or wild animal by any person in defence of himself or of any other person or of property;

(ii) the capture, sale, purchase or possession for scientific or public purposes of any wild bird or wild animal by, or on behalf of, the authorities administering public zoological gardens.

15. *Power to make rules.*—(1) The Provincial Government may, after previous publication, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the Provincial Government may make rules for all or any of the following purposes, namely:—

(a) to prescribe the form in which and the terms and conditions under which, a licence may be granted;

(b) to prescribe the fees to be charged for any licence;

(c) to provide for the confiscation of any wild bird or wild animal killed, captured, bought, sold or offered for sale in contravention of the provisions of this Act;

(d) to prescribe the person or class of persons who may make complaint of offences under this Act and to prescribe the Government officers authorised to take action under section 5;

(e) to prescribe in the case of any species of wild bird or wild animal the numbers and sex that may be killed, captured or possessed under a licence.

(3) Rules made under this Act shall be published in the *Official Gazette* and shall be subject to the condition of previous publication.

(4) Rules made under this Act shall be laid on the table of the Sind Legislative Assembly during the session of the said Assembly next following and shall be liable to be modified or rescinded by a resolution of the Assembly and such rules shall, after having been notified in the *Official Gazette*, be deemed to have been modified or rescinded accordingly.

SCHEDULE 1.

Schedule of Wild Birds and Wild Animals which are excluded from protection under section 4 (i) of the Act.

1	2	3	4	5
Serial No.	Scientific name.	English name.	Sindhi name.	Period.
		Birds.		
1	<i>Corvus macrorhynchos</i> .	Grey Necked Crow	Kanw.	
2	<i>Corvus splendens</i> ...	The House Crow...	Kanw.	
3	<i>Phalarocorax carpo</i> ...	The Indian Large Cormorant.	Mahikhor (Wado Hindi.)	
4	<i>Phalarocorax fuscicollis</i> .	The Indian Shag.	...	
5	<i>Phalarocorax niger</i> ...	The Little Cormorant	Mahikhor (Nandho).	
6	<i>Anhinga melanogaster</i> ...	The Indian Darter, or Snake Bird,	Silee.	
7	<i>Psittacula eupatria</i> ...	The Large Indian Paroquet.	Toto.	
8	<i>Psittacula krameri</i> ...	The Rose-ringed Paroquet.	Toto.	
		Animals.		
9	<i>Felis pardus</i> ...	The Leopard or Panther.	Palang.	
10	<i>Felis ornata</i> ...	The Indian Desert Cat.	Jhangrar, jangli bilo.	
11	<i>Felis chaus</i> ...	The Jungle Cat.	Jhangrar, jangli bilo.	
12	<i>Felis viverra zibetha</i> ...	The Large Indian Civet.	Musbik bilo (wado hindi.)	
13	<i>Herpestes auropurciatus</i> .	The Small Indian Mongoose.	Nor.	

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SCHEDULE I.—*contd.*

1	2	3	4	5
Serial No.	Scientific name.	English name.	Sindhi name.	Period.
14	<i>Herpetes mungo</i> .	Animals— <i>contd.</i> The Common Indian Mongoose.	Nor.	
15	<i>Herpestes amithi</i> ...	The Ruddy Mongoose.	Nor.	
16	<i>Canis lupus</i> ...	The Wolf. ...	Baghar.	
17	<i>Canis pallipes</i> ...	The Indian Wolf.	Baghar.	
18	<i>Canis aureus</i> ...	The Jackal ...	Gidar.	
19	<i>Lutra vulgaris</i> ...	The Common Otter	Ludbro.	
20	<i>Ursus torquatus</i> ...	The Himalayan Black Bear.	Richb.	
21	<i>Sus eristatus</i> ..	The Indian Wild Bear.	Suar.	
22	<i>Macacus rhesus</i> ...	The Bengal Monkey.	Bandar.	
23	<i>Hyaena striata</i> ...	The Hyena ...	Chirakh.	
24	<i>Pteropus medius</i> ...	The Indian Fruit Bat.	Chamro.	
25	<i>Hystrix bucara</i> ...	The Indian Porcupine.	Kharpusht.	
26	<i>Sciurus Indicus</i> ...	The Squirrel ..	Noriaro.	
27	<i>Mus</i> (whole family)	Rats and Mice....	Kua.	

SCHEDULE II.

Schedule of Wild Birds and Wild Animals which under section 4 (ii) of the Act—

(a) may be killed, captured, possessed, bought, sold or offered for sale during the period specified in column 5 under a licence and in the manner and to the extent, provided thereby,

(b) may be bought or possessed without a licence during the period specified in column 5 for purposes of consumption provided that they have been obtained from a licensee.

1	2	3	4	5
Serial No.	Scientific name.	English name.	Sindhi name.	Period.
		Birds		
1	<i>Cygnus Cygnus</i> ...	The Whooper (Swan	... ..	15th September to 15th March.
2	<i>Cygnus bewicki</i> ...	Bewick's Swan ...	.....	
3	<i>Cygnus olor</i> .	The Mute Swan .	Vilavati hanj.	

SCHEDULE II.—*Contd.*

1	2	3	4	5
Serial No.	Scientific name.	English name.	Sindhi name.	Period.
		<i>Birds—contd.</i>		
4	Grus	Eastern Crane	Bagh Pakhi	15th September to 15th March.
5	Anthropoides virgo.	Demoiselle Crane.	Nandho	
6	Megalornis leucog- eranus	Great White Crane	Bagh Pakhi	
7	Phoenicopterus ruber. antiquorum	Common Falmingo	Wado achho Bagh pakhi	
8	Phoenicopterus minor	Lesser flamingo ...	Lakhi janji	
9	Anser anser	The Grey Lag Goose	Nandho lakhi janji	
10	Anser albifrons ...	The white-fronted goose.	Hanj, Hans, Chbaso,	
11	Anser erythropus	The dwarf or Lesser White-fronted goose	Pant-jo-Hanj Lulo hanj Do..	
12	Anser brachyrhyn- chus	The Pink-footed goose.	Gulabi peran waro hans.	
13	Anser indicus ...	The Bar-headed Goose	Raj Hans.	
14	Anser Branta rufico- llis.	The Red-breasted Goose.	...	
15	Tadorna tadorna..	The Sheldrake	Hanjar, Tar Neergi.	
16	Casarca ferruginea	The Ruddy Shel- drake or Brab- miny Duck.	Managh, Chakuo	
17	Anas platyrhyncha	The Mallard ...	Neergi	
18	Ennetta falcata ...	The Crested or Falcated Teal	Choti-a-war- buraqo.	
19	Chaulelasmus Stre- perus.	The Gadwali ...	Buar.	
20	Mareca Penelope	The Widgoon ...	Pharao ...	
21	Nettion formosum	The Baikal or Clu- ckling Teal.	Barkarari	
22	Nettion crecca ...	The Common Teal	Huraro, Sen- dhar, Kardo	
23	Dafila acuta ...	The Pintail ...	Digosh	
24	Querquedula quer- quedula	The Garganey or Blue winged teal.	Cheeklo Cheekblo	
25	Spatula clypeata...	The Shoveller ...	Langho, Dub- lari.	
26	Marmaronetta an- gustirostris.	The Marbled Teal	Choi	

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SCHEDULE II.—Contd.

1	2	3	4	5
Serial No.	Scientific name.	English name.	Sindhi name.	Period.
		Birds—contd.		
27	<i>Netta rufina</i> ...	The Red crested Pochard	Rutbo	15th September to 15th March.
28	<i>Nyroca ferina</i>	The Pochard or Sun Bird.	Thurbando	
29	<i>Nyroca rufa</i>	The White-eyed Pochard or White eye	Budno	
30	<i>Nyroca marila</i>	The Scaup ...	.....	
31	<i>Nyroca fuligula</i>	The Tufted Pochard	Runbaro.	
32	<i>Glaucionetta clangula</i>	The Golden Eye	.....	
33	<i>Erismatura leucoccephala</i> .	The White-headed or Stiff tailed Duck.	.....	
34	<i>Mergellus albellus</i>	The Smew ...	Dayali, Jhali.	
35	<i>Mergus merganser</i>	The Goosander...	.....	
36	<i>Mergus serrator</i>	The Read-breasted Merganser.	.....	
37	<i>Sarkidiornis melanotus</i> .	The Nukta or Comb Duck.	Nukto	
38	<i>Asarcornis scutulatus</i>	The White-winged Wood Duck.	.....	
39	<i>Rhodonessa carvophyllacea</i>	The Pink-headed Duck.	.....	
40	<i>Nettapus coromandelianus</i> .	The Cotton Teal...	.....	
41	<i>Dendrocygna javanica</i> .	The Lesser Whistling Teal.	Cheeba (Nandbi).	
42	<i>Dendrocygna fulva</i>	The Large Whistling Teal	Cheeba (wadi).	
43	<i>Anas poecilorhyncha</i>	The Indian Spot-bill or Grey Duck	Hapjro	
44	<i>Crocopus phoenicopterus chlorogaster</i>	Southern Green Pigeon.	.....	
45	<i>Dendrophassa binnia bicincta</i> .	Orange breasted Green Pigeon.	.....	
46	<i>Columba livia</i> ...	The Blue Rock Pigeon	Kobi Kabutar	
47	<i>Columba rupestris</i>	The Blue Hill Pigeon.	Kobi Kabutar	
48	<i>Columba oenas</i> ...	The Eastern Stock Pigeon or Dove.	.....	

SCHEDULE II—*contd.*

1	2	3	4	5
Serial No.	Scientific name.	English name.	Sindhi name.	Period.
		Birds— <i>contd.</i>		
49	<i>Columba palumbus</i>	The Eastern Wood-Pigeon or Ring Dove.	Gero	15th September to 15th March
50	<i>Streptopelia chinensis.</i>	The Indian Spotted Dove.	Gero.	
51	<i>Streptopelia decoot</i>	The Indian Ring Dove.	Gero.	
52	<i>Pterocles orientalis</i>	The Large Imperial or Black-bellied Sandgrouse.	Pat titur	
53	<i>Pterocles indicus...</i>	The painted Sandgrouse.	Pat titur	15th October to 1st March.
54	<i>Pterocles coronatus</i>	The Coronetted Sandgrouse.	Pat titur	
55	<i>Pterocles alchata...</i>	The Large Pin-tailed Sandgrouse.	Pat titur	
56	<i>Pterocles extensus</i>	The Common Indian Sandgrouse.	Pat titur	
57	<i>Pavo cristatus ...</i>	The Common Peafowl.	Mor	15th September to 15th March.
58	<i>Alectoris graeca ...</i>	The Chukar or Chikor	Chakor	
59	<i>Ammoperdix griseogularis.</i>	The Seesee Partridge	...	
60	<i>Francolinus francolinus.</i>	The Black Partridge	Karo titur	
61	<i>Francolinus pondicerianus.</i>	The Grey Partridge	Titur	15th September to 15th March.
62	<i>Turnix dussumieri</i>	The Little Button Quail.	Batéro	
63	<i>Turnix maculatus...</i>	The Indian Button Quail.	Batéro	
64	<i>Coturnix coturnix</i>	Common or Grey Quail.	Batéro	
65	<i>Coturnix Coromandelica.</i>	Rain Quail	Batéro	15th September to 15th March.
66	<i>Porphyrio Polioccephalus.</i>	The Indian Purple Moorhen.	Gajro, Kubang	
67	<i>Fulica atra atra.</i>	The Common Coot	Ari, Bolahi, Kubang pakhi	
68	<i>Otis tarda.</i>	The Great Bustard	Talur (wadi)	
69	<i>Tetrax tetrax</i>	The Little Bustard	Talur (Nandhi)	

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ACT, 1940.

SCHEDULE II—*contd.*

1	2	3	4	5
Serial No.	Scientific name.	English name.	Sindhi name.	Period.
		Birds— <i>contd.</i>		
70	<i>Choriotis nigriceps</i>	The Great Indian Bustard.	Talur (wadi Hindi).	15th September to 15th March
71	<i>Olamydotis undulata.</i>	The Honbara or Macqueen's Bustard.	...	
72	<i>Sypheotides indica</i>	The Lesser Florican or Likh.	Likh, Karwanak	
73	<i>Burhinus oedipnemos</i>	The Stone Plover	Teeto	
74	<i>Esacus recurvirostris</i>	The Great Stone Plover.	Teeto	
75	<i>Cursorius coromandelicus.</i>	The Indian Courser	...	
76	<i>Cursorius cursor...</i>	The Eastern cream-coloured Courser.	...	
77	<i>Vanellus vanellus...</i>	The Lapping, Plover. or Green Plover.	Teetihar	
78	<i>Pluvialis dominicus</i>	The Eastern Golden Plover.	Teetibar	
79	<i>Pluvialis apricarius</i>	The Golden Plover	Teetihar	
80	<i>Numenius arquata</i>	The Curlew	Kokrand	
81	<i>Scolopax rusticola</i>	The Wood-cock	Achho Teeto	
82	<i>Capella nemoricola</i>	The Wood Snipe	Achho Teeto	
83	<i>Capella solitaria</i> ...	The Eastern Solitary Snipe.	Isnaf Pakhi	
84	<i>Capella gallinago...</i>	The Common or Fantail Snipe.	Doom pakhi	
85	<i>Capella stenura...</i>	The Pin-tail Snipe	Isnaf pakhi	
86	<i>Capella media</i>	The Great Snipe	Isnaf pakhi	
87	<i>Limnocryptes minima.</i>	The Jack Snipe	Isnaf pakhi	
88	<i>Rostratula bengalensis.</i>	The Painted Snipe	Kabro Isnaf	
89	<i>Pastor roseus</i> ...	Rosy Pastor	Gulabi Maina	
90	<i>Sturnus vulgaris minor.</i>	Sind Starling	Wahyo (Sindhi)	
		Animals.		
91	<i>Ovis vignei</i> ...	Urial	Gad	1st October to 31st March.
92	<i>Capra Aegagrus...</i>	Sind Ibex	Sarah	
93	<i>Antelope cervicapra</i>	Indian Antelope or Black Buck.	Mirgh (Hindi)	

SCHEDULE II.—*Concl'd.*

1	2	3	4	5
Serial No.	Scientific name.	English name.	Sindhi name.	Period.
94	<i>Cervus porcinus</i> ...	Birds— <i>cont'd.</i> The Hog Deer ...	Pharbo	1st November to 31st May.
95	<i>Gazelle bennetti</i> ...	Indian Gazelle or Ravine Deer.	Haran (Hindi)	1st October to 31st March.
96	<i>Lepus ruficau datus</i>	The Common Indian Hare.	Saho (Hindi)	15th September to 31st March. Whole year.
97	<i>Lepus Dayanus</i> ...	The Sind Hare	Saho (Sindhi)	
98	<i>Equus hemionus</i> ...	The Wild Ass ...	Gur Khar	

Note.—Hares of both sexes may be shot. Of other animals only males may be shot. Females are reserved throughout the year.

SCHEDULE III.

Schedule of Wild Birds or Wild Animals which may be possessed throughout the year as pets or for use as decoys under section 4 (iii).

1	2	3	4	5
Serial No.	Scientific name.	English name.	Sindhi name.	Limit.
1	<i>Ploceinae</i> ...	The Weaver Birds (all kinds).	Kedo pakhi, Babur.	Up to a limit of ten of each species. Without limit.
2	<i>Viduinæ</i> ...	Munias (of all kinds)	...	
3	All birds and animals included in Schedule I.	...	...	
4	<i>Columba livia</i> ...	The Blue Rock Pigeon.	Kohi Kabutar	Without limit.
5	All other wild birds and wild animals.	...	...	Up to a limit of five of each species.

The Sind Cattle Diseases Act, 1940.

Received the assent of the Governor on the 20th December 1940 and is published in the *Sind Government Gazette*, Part IV, dated the 23rd January 1941.

Sind Act No. XXII of 1940.

An Act to provide for the prevention of the spread of contagious diseases among cattle in the Province of Sind.

WHEREAS it is expedient to take measures to prevent the spread of contagious diseases among cattle in the Province of Sind; It is hereby enacted as follows:—

1. *Short title and extent.*—(1) This Act may be called the Sind Cattle Diseases Act, 1940.

(2) It extends to the whole of the Province of Sind.

Notes

Object.—“There have been several outbreaks of Rinderpest in Sind resulting in heavy mortality among cattle in this Province. These outbreaks have been traced to infected cattle entering the Province from some of the adjoining Indian States, but if the healthy cattle in Sind had been inoculated, they would have been immune from contagion.

At present, there is no law for compulsory inoculation of healthy cattle during outbreaks of contagious diseases.

This Bill makes the necessary provision.” [Vide Statement of Objects and Reasons printed at page 552 of Part IV of the *Sind Government Gazette*, 1940.]

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context—

(1) “cattle” means cows, bulls, bullocks, buffaloes, sheep and goats and the young ones of these species of both sexes;

(2) “contagious disease” means a disease specified in the Schedule to this Act and any other disease which the Provincial Government may, by notification in the Official Gazette, declare to be a contagious disease;

(3) “Veterinary Officer” means any officer of the Civil Veterinary Department not below the rank of a Veterinary Assistant Surgeon;

(4) “inoculation” means inoculation with any protective serum or vaccine or with both;

(5) “owner” in relation to any animal includes a person having charge of such animal;

(6) “prescribed” means prescribed by rules made under this Act.

3. *Power to notify infected areas.*—The Provincial Government or such officer as it may authorise in this behalf may, in the prescribed manner, declare any local area in which any cattle is affected by or exposed to any contagious disease specified in such notification to be an infected area.

4. *Inoculation of animals.*—(1) On the issue of a notification under section 3 it shall be lawful for a Veterinary Officer appointed for the infected area to inoculate every healthy animal of the species affected by or exposed to the contagious disease specified in such notification.

(2) For the purpose of inoculating any such animal the Veterinary Officer may, by notice in writing, call upon the owner of the animal to produce it for inoculation at the time and place specified in such notice.

(3) On receipt of notice referred to in sub-section (2) the owner of the animal shall detain such animal within the area selected by the Veterinary Officer and give that officer every facility and assistance in carrying out the inoculation.

(4) During the period of detention, which shall not be more than six days, the Veterinary Officer may allow the animal to be taken out of the area selected as aforesaid, for grazing and watering, but the owner of the animal shall be responsible for its return to such area and for its production before the Veterinary Officer as and when required by the Veterinary Officer.

5. *Marking of animals.*—For the purposes of identification, the Veterinary Officer may mark the inoculated animal by branding or tattooing with letters or numerals or both.

6. *Certificate of inoculation.*—When inoculation has been carried out under section 4, the Veterinary Officer shall, if requested by the owner of the inoculated animal, issue a certificate in the prescribed form showing that the animal has been inoculated against the disease shown in such certificate.

7. *No fee to be charged for inoculation.*—No fee shall be recoverable for inoculation carried out in accordance with the provisions of this Act.

8. *Non-compliance with section 4 to be reported to police.*—If the owner of an animal in respect of which a notice has been issued under subsection (2) of section 4 refuses to produce or detain such animal for inoculation in accordance with the provisions of the said section, the Veterinary Officer concerned shall report the default to the nearest police station and the officer-in-charge of such police station, or such other police officer as may be deputed by him in this behalf, shall thereupon seize the animal and detain it for production before, and inoculation by, the Veterinary Officer reporting the default.

9. *Recovery of expenses of detention.*—The expenses of detention and production before the Veterinary Officer incurred under section 8 shall be recoverable at such rates as may be prescribed from the owner of the animal. If he fails to pay the amount due, it may, without prejudice to any other mode of recovery, be recovered by sale, by public auction, of such number of the owner's animals as may be sufficient to realize such amount.

10. *Penalty.*—Whoever contravenes the provisions of section 4 shall, on conviction, be punishable with fine not exceeding Rs. 50, or in default with simple imprisonment for a term not exceeding one month.

11. *Cognizance of offences.*—No Court inferior to that of a Magistrate of the second class shall take cognizance of an offence under this Act.

12. *Bar of Legal Proceedings.*—No legal proceedings shall be taken against any person for anything in good faith done or ordered to be done in pursuance of this Act.

13. *Rules.*—(1) The Provincial Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, the Provincial Government may make rules—

(a) prescribing the manner in which an area may be declared to be an infected area;

(b) prescribing the form of notice issued under subsection (2) of section 4;

(c) prescribing the form of certificate granted under section;

(d) providing for the custody of animals detained under this Act and for their feeding and watering while under detention and prescribing the charges to be levied for feeding and watering such animals and for their production by the police before the Veterinary Officer; and

(e) regulating the sale of animals liable to be sold under section 9.

(3) Rules made under this Act shall be laid upon the table of the Sind Legislative Assembly at the session of the said Assembly next following and shall be liable to be modified or rescinded by a resolution of the said Assembly and the modification or rescission so made shall, after publication by notification in the *Official Gazette*, be deemed to have come into force.

SCHEDULE.
(See section 2)

- (1) Rinderpest.
- (2) Haemorrhagic Septicæmia.
- (3) Anthrax.
- (4) Black Quarter.
- (5) Contagious Abortion.

The Bombay Ferries (Sind Amendment) Act, 1940.

Received the assent of the Governor on the 21st December 1940 and is published in the *Sind Government Gazette*, Part IV, dated the 23rd January 1941.

Sind Act No XXIII of 1940.

An Act further to amend the Bombay Ferries Act, 1868, in its application to the Province of Sind

WHEREAS it is expedient further to amend the Bombay Act, 1868, in its application to the Province of Sind for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. *Short title*—This Act may be called the Bombay Ferries (Sind Amendment) Act, 1940.

Notes.

Object.—"The closing of the Landsdowne Bridge to Vehicular traffic by the North Western Railway authorities with effect from 1st April 1939 has resulted in great hardship to the travelling public in moving from one town to another. The distance between Sukkur town proper and Rohri Tonga shed *via* Landsdowne Bridge is about 3 miles and *via* the Lloyd Barrage Bridge is nearly 6 miles. In order to remove this hardship it is necessary to permit the plying of ferry boats between Rohri and Sukkur. Section 14-A of the Bombay Ferries Act, 1868, prohibits the plying of ferries for carrying passengers, etc., within three miles of a bridge where toll is leviable. The proposed Bill seeks to amend section 14-A of the Act so as to empower Government to authorise a ferry for carrying passengers etc., by granting a special licence." [Vide Statement of Objects and Reasons, printed at pages 512-13 of Part IV of the *Sind Government Gazette*, 1940.]

2. *Amendment of section 14-A of Bom. II of 1868.*—In the Bombay Ferries Act, 1868, for section 14-A the following shall be substituted, namely:—

"14-A. Any person who, without the special licence of the Provincial Government, shall convey for hire any passenger, animal, cart, carriage, or goods, or any palookin, duli, or other thing across any river or creek between two points both of which are less than three miles distant from a bridge at which under the provisions of any law for the time being in force a toll is leviable on passengers, animals, carts, carriages or goods or on palankins, dulis, or such other thing, shall be liable to a penalty not exceeding five hundred rupees."

The City of Karachi Municipal (Amendment) Act, 1940.

Received the assent of the Governor on the 23rd December 1940 and is published in the *Sind Government Gazette*, Part IV, dated the 23rd January 1941.

Sind Act No. XXIV of 1940.

An Act further to amend the City of Karachi Municipal Act, 1933.

WHEREAS it is expedient further to amend the City of Karachi Municipal Act, 1933, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. *Short title*.—This Act may be called the City of Karachi Municipal (Amendment) Act, 1940.

2. *Amendment of section 14 of Bom. XVII of 1933*.—(1) In section 14 of the City of Karachi Municipal Act, 1933, hereinafter called "the said Act", for the proviso the following shall be substituted, namely:—

Provided that no person shall be deemed to have incurred the disqualification under clause (f) by reason of his having—

(a) any share or interest—

(i) in any lease, sale, exchange or purchase or any immovable property or in any agreement for the same; or

(ii) in any agreement for the loan of money or in any security for the payment of money only; or

(iii) in any newspaper in which any advertisement relating to the affairs of the Corporation may be inserted; or

(iv) in the occasional sale to the Corporation of any article in which he regularly trades, or in the purchase from the Corporation of any article, up to the value in either case not exceeding in any official year five hundred rupees; or

(v) in the occasional letting out on hire to the Corporation, or in the hiring from the Corporation of any article for an amount not exceeding in any official year two hundred rupees; or

(b) any share in any joint stock company which shall contract with or be employed by or on behalf of the Corporation.

(2) The amendment made by sub-section (1), in so far as it effects a person having an interest in a joint stock company or being a director, secretary or officer of such company, shall not have effect for a period of six months from the date on which this Act comes into force.

3. *Amendment of section 20 of Bom. XVII of 1933*.—In section 20 of the said Act, in sub-section (2), after the word "day" where it occurs for the third time the words "not later than a fortnight from such day," shall be inserted.

4. *Amendment of section 26 of Bom. XVII of 1933*.—In section 26 of the said Act, in sub-section (1), for the word "may" where it occurs in both places, the word "shall" shall be substituted.

5. *Amendment of section 32 of Bom. XVII of 1933*.—In section 32 of the said Act, clause (a) of the proviso shall be omitted.

6. *Amendment of section 37 of Bom. XVII of 1933*.—In section 37 of the said Act, after clause (24), the following new clause shall be deleted, namely:—

"(24-A) the grant of loans for building purposes to servants of the Corporation drawing a monthly salary of not more than two hundred rupees, on such terms and subject to such conditions as may be prescribed."

7. *Amendment of section 38 of Bom. XVII of 1933*.—In section 38 of the said Act, in clause (c) of subsection (3), for the words "Standing

Committee or the Corporation", the words "Standing Committee and the Corporation" shall be substituted.

8. *Amendment of section 43 of Bom. XVII of 1933.*—In section 43 of the said Act, in the proviso, for clause (4) the following shall be substituted, namely:—

"(4) Nothing herein contained shall be deemed to authorise the Standing Committee or the Chief Officer to create any appointment, whether temporary or permanent; but the Chief Officer may, if on account of any unforeseen emergency it is not practicable to obtain the previous sanction of the Corporation, create, within the limits of his powers under this section, temporary appointments for a period not exceeding two months. Every such appointment shall be reported forthwith to the Corporation and shall not be continued or revised without its specific sanction."

9. *Amendment of section 80 of Bom. XVII of 1933.*—In section 80 of the said Act—

(a) in sub-section (2), for the words "one hundred" the word "twenty" and for the words "one thousand" the words "five hundred" shall be substituted;

(b) in sub-section (3), for the words "one hundred" the word "twenty" shall be substituted.

10. *Amendment of section 94 of Bom. XVII of 1933.*—In section 94 of the said Act—

(a) in sub-section (3), after the word "quarterly" the words, "not later than sixty days after the close of the quarter" shall be inserted;

(b) after sub-section (3), the following new sub-section shall be inserted, namely:—

"(4) Not later than sixty days after the close of the quarter, the Auditor appointed under section 42 shall report to the Corporation to what extent any expenditure or recoveries, other than arrears of taxes, have not been brought into account."

11. *Amendment of section 104 of Bom. XVII of 1933.*—In section 104 of the said Act, in clause (b) of the words "within six months of such payment" the words "in writing within ninety days of the expiry of the year to which the claim relates" shall be substituted.

12. In section 116 of the said Act in sub-section (2)—

(a) in clause (b), for the words "fifteen days next after service of the notice of demand complained of" the words "the prescribed period" shall be substituted;

(b) in clause (d), for the words "an application in writing stating the grounds on which the amount of the tax or claim is disputed has been made to the Standing Committee" the words "a statement in writing stating the grounds on which the amount of the tax or claim is disputed has been lodged with the Chief Officer" shall be substituted;

(c) the following Explanation shall be inserted, namely:—

"Explanation.—"prescribed period" means—

(i) where the notice of demand relates to a general tax, fifteen days from the date of receipt of the order passed on appeal made to the Chief Officer or the officer appointed under sub-rule (2) of section 107;

(ii) in every other case, fifteen days from the notice of demand complained of."

13. *Amendment of Schedule VIII.*—In Schedule VIII to the said Act, in Chapter II, in Rule 4, after sub-rule (2) the following sub-rule shall be inserted, namely:—

"(2A) When any building or land is included in the assessment list for the first time or when the amount of annual value of any building or land is enhanced the Chief Officer shall send by post to the owner of such building or land a notice containing the particulars specified in sub-rules (1) and (2)."

The Indian Lunacy, Bombay District Municipal and Bombay Municipal Boroughs (Sind Amendment) Act, 1940.

Received the assent of the Governor-General on the 24th January 1941 and is published in the *Sind Government Gazette*, Part IV, dated the 13th February 1941.

Sind Act No. XXV of 1940.

An Act to amend the Indian Lunacy Act, 1912, the Bombay District Municipal Act, 1901, and the Bombay Municipal Boroughs Act, 1925, in their application to the Province of Sind.

WHEREAS it is expedient to amend the Indian Lunacy Act, 1912, the Bombay District Municipal Act, 1901, and the Bombay Municipal Boroughs Act, 1925, in their application to the Province of Sind, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Indian Lunacy, Bombay District Municipal and Bombay Municipal Boroughs (Sind Amendment) Act, 1940.

Notes.

Object.—"The object of this Bill is to amend the Indian Lunacy Act, 1912, and certain ancillary provisions of the Bombay District Municipal Act, 1901, and the Bombay Municipal Boroughs Act, 1925, for the purpose indicated below.

2. The definition of the criminal lunatic as given in section 3 (4) of the Indian Lunacy Act is being amended so as to exclude any person who, after the expiration of the term for which he was ordered or sentenced to be detained or imprisoned, is ordered to be further detained under section 30 of the Prisoners Act, 1900, so that the criminal patient may be treated as a civil patient after the expiry of the period for which he was sentenced to be detained or imprisoned.

3. In certain cases it is considered desirable that a lunatic should be discharged temporarily from the Lunatic Asylum in the interests of his health. There are also cases in which the Superintendent of the Asylum is not able to decide whether a patient has recovered or not. As the Indian Lunacy Act stands, it does not contain any provision enabling the Superintendent to discharge a lunatic temporarily. New section 33-A inserted by clause 2 (1) of the Bill provides for the discharge of a lunatic temporarily in the circumstances and subject to the conditions specified therein.

4. Section 55 of the Bombay District Municipal Act, 1901, provides that every municipality shall pay for the maintenance and treatment in a lunatic asylum of lunatics habitually resident within the municipal district or removed from such district under any enactment for the time being in force. Similar provision is contained in section 70 of the Bombay Municipal Boroughs Act, 1925. Difficulty has, however, been experienced in fixing the liability of the municipality under these provisions. It is, therefore, proposed to amend section 88 of the Indian Lunacy Act and empower certain courts to enquire into the question whether any local authority is liable for the cost of maintenance of such lunatic.

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5. Section 88 of the Indian Lunacy Act does not contain any provision for the recovery of the maintenance charges of lunatics in cases where they are admitted into an asylum under section 7 or section 8. It is proposed to remedy this defect in section 88 by inserting a reference therein to these two sections. Section 47 applies to Presidency towns and a reference to that section has therefore, been omitted.

6. It is further proposed to provide in section 89 that a court shall not pass an order for the recovery of the cost of maintenance of a lunatic from the local authority if a lunatic has an estate applicable to his maintenance or if there is a person who is legally bound, and has the means, to maintain him.

7. Section 89 enables a court to proceed against the estate of a lunatic without taking into consideration the needs of his wife, children and other dependents, if any. The strict application of this provision will have the effect in some cases of reducing these dependents to poverty and want. It is, therefore, proposed that in determining if there is any estate applicable to the lunatic's maintenance the court should first make due allowance for the needs of these dependents.

8. In view of the amendments made to the Indian Lunacy Act, it is necessary to make certain consequential amendments in section 55 of the Bombay District Municipal Act, 1901, and section 70 of the Bombay Municipal Boroughs Act, 1925." [Vide Statement of Objects and Reasons, printed at pages 538-39 of Part IV of the *Sind Government Gazette*, 1940.]

2. *Amendment of section 3 (4) of IV of 1912.*—In the Indian Lunacy Act, 1912—

(a) in section 3, to clause (4), the following words shall be added, namely:—

"but shall not include—

(a) a person detained under section 466 of the Code of Criminal Procedure, 1898, if the prosecution pending against him is withdrawn,

(b) a person detained under section 471 of the Code of Criminal Procedure, 1898, if he has remained in such detention, whether in a jail or in an asylum, for the maximum term prescribed by law for the offence, which his act would but for his lunacy have constituted, or for seven years, whichever is less,

(c) a person who after the remission of the unexpired portion of his sentence or after the expiration of the term for which he was ordered or sentenced to be detained or imprisoned is ordered to be further detained under section 30 of the Prisoners Act, 1900."

(b) *Insertion of new section 33A in Act IV of 1912.*—After section 33, the following new section shall be inserted, namely:—

"33A. *Temporary release of lunatics.*—(1) When any relative or friend of a lunatic detained in any asylum under the provisions of sections 7, 10, 14 or 15 is desirous that such lunatic shall be temporarily released and delivered over to his care and custody, he may make an application to the person in charge of the asylum, who shall make an order for the temporary release of such lunatic for a period not exceeding sixty days, unless for any reason he considers that such release is undesirable and such lunatic shall, thereupon be so released.

(2) No order under sub-section (1) for the temporary release of a lunatic detained under section 7 or 10 shall be passed except on an application of

the petitioner on whose petition such lunatic was detained or without the consent in writing of such petitioner :

Provided that, if in any such case, it appears to the person in charge of the asylum that such petitioner refuses, without sufficient reasons, to accord such consent, he shall refer the application made to him under sub-section (1) to the magistrate who would have jurisdiction to detain such lunatic under section 7 or 10 and such magistrate may, after making such inquiry as he thinks fit, order the temporary release of such lunatic for the period specified in sub-section (1).

(3) Any order made for the release of a lunatic under sub-section (1) may, on the application of any relative or friend, at any time during the period of his release, be set aside or varied by the magistrate who would have jurisdiction to detain such lunatic in an asylum under sections 7, 10, 14 and 15 on any ground other than that the lunatic was not in a state of mind fit to be released at the time the order for his release was made under sub-section (1). If the order of release is so set aside, the lunatic shall be readmitted and detained in the asylum.

(4) If a lunatic released under sub-section (1) or (2) is at any time during the period of his release, found to be unmanageable or dangerous and unfit to be at large, the person who applied for his release may take the lunatic to the asylum, and such lunatic shall thereupon be re-admitted and detained in the asylum.

(5) If a lunatic released under sub-section (1) or (2) does not return to the asylum at the expiration of the period for which he was released and if no order for his discharge has been passed under section 31 or section 33 or if he is, at any time during the period of his release, found to be unmanageable or dangerous or unfit to be at large and the person who applied for his release states by a written application to the person in charge of the asylum that he is unable to bring him to the asylum such lunatic shall be deemed to have escaped from the asylum and may at any time within one month after the expiration of the said period be re-taken to and detained in the asylum in the manner provided in section 36 :

Provided that such a person shall be deemed to be discharged if on or before the expiry of the period for which he was released, the Board of Visitors is satisfied either (a) as a result of investigations conducted by the person in charge of the asylum concerned or (b) on receipt of a certificate signed by a medical practitioner that the person may with safety be discharged."

(c) For section 88 the following shall be substituted, namely :—

"88. *Application to Civil Court for order for the payment of cost of maintenance out of the lunatic's estate or by person bound to maintain him or by local authority liable for such costs.*—If a lunatic detained in an asylum on a reception order made under sections 7, 10, 14 or 15 or an order made under section 8 or 16 has an estate applicable to his maintenance, or if any person legally bound to maintain such lunatic has the means to maintain him or if any local authority is liable for the cost of maintenance of such lunatic under any law for the time being in force, the authority which made the reception order or other order aforesaid may apply to the High Court, or District Court within the local limits of the original jurisdiction of which the estate of the lunatic is situate or the person legally bound to maintain him resides or the local authority liable

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for the cost of his maintenance is constituted for an order for the payment of the cost of maintenance of the lunatic."

(d) In section 89—

(i) for sub-section (1), the following shall be substituted, namely :—

"(1) *Order of Court and enforcement thereof.*—The Court shall inquire into the matter in a summary way, and on being satisfied that such lunatic has an estate applicable to his maintenance, or that any person is legally bound to maintain and has the means of maintaining such lunatic, or that any local authority is liable for the cost of maintenance of such lunatic under any law for the time being in force, may make an order for the recovery of the cost of maintenance of such lunatic, together with the costs of the application out of such estate or from such person or from such local authority :

Provided that no order for the recovery of the cost of maintenance of such lunatic from a local authority shall be made if he has an estate applicable to his maintenance or if there is any person legally bound, and having the means, to maintain him :

Provided further that for the purpose of determining if the lunatic has such estate due allowance shall first be made for the needs of the wife, children and other dependents, if any, of the lunatic."

(ii) in sub-section (2) of section 89, after the word "person", the words "or the local authority" shall be inserted

3. *Amendment of section 55 of Bom. III of 1901.*—In section 55 of the Bombay District Municipal Act, 1901,—

(1) the words "habitually resident within, or under any enactment for the time being in force removed from, such district" the words "removed under any enactment for the time being in force from such district" shall be substituted.

(2) for the proviso the following shall be substituted, namely :—

"Provided that where an application is made to the High Court or a District Court under the provisions of section 88 of the Indian Lunacy Act, 1912, no order for the payment of the cost of maintenance of the lunatic by a Municipality shall be made without an opportunity being given to such Municipality to show that the lunatic has an estate applicable to his maintenance or that there is a person legally bound, and having the means to maintain him :

Provided further that the municipality shall not be liable under this section for the maintenance and treatment of any lunatic or leper in any such asylum, hospital or house as aforesaid, unless such lunatic or leper, immediately previous to his admission thereto, has been resident in the municipal district for at least one year.

The officer in charge of an asylum, hospital or house to which lunatics or lepers for whose maintenance and treatment a municipality is liable under this section are admitted, shall maintain a clear account of the cost of maintenance and treatment incurred on account of such person detained in the asylum, hospital or house and shall furnish a copy thereof to the municipality."

4. *Amendment of section 70 of Bom. XVIII of 1925.*—In the second proviso to section 70 of the Bombay Municipal Boroughs Act, 1925 (a) for the words beginning with the words "before making any order" and ending with the words "the Local Government," the following shall be substituted, namely :—

"Where an application is made to the High Court or a District Court under the provisions of section 88 of the Indian Lunacy Act, 1912, no order for the payment of the cost of maintenance of the lunatic by a municipality shall be made without an opportunity being given to such municipality to show that the lunatic has an estate applicable to his maintenance or that there is a person legally bound, and having the means, to maintain him;

(b) after the word "asylum" where it occurs in both places, the words "hospital or house" shall be inserted.

The Bombay Abkari (Sind Amendment) Act, 1940.

Received the assent of the Governor-General on the 26th January 1941 and is published in the *Sind Government Gazette*, Part IV, dated the 13th February 1941.

Sind Act No. XXVI of 1940.

An Act to amend the Bombay Abkari Act, 1878, in its application to the Province of Sind.

WHEREAS it is expedient to amend the Bombay Abkari Act, 1878; in its application to the Province of Sind, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Bombay Abkari (Sind Amendment) Act, 1940.

Notes.

Object.—The Bill amends the Bombay Abkari Act, 1878, in certain respects. The various amendments sought to be made are explained below.

Notes on clauses.

Clauses 2, 3, 4 (a), 5 and 8.—These amendments are verbal and have been necessitated by the separation of this Province.

Clauses 4 (b) and 6.—These amendments are being made as mhowra flowers do not grow in Sind.

Clause 4 (c).—The cultivation of hemp and the sale of any intoxicant or hemp without a licence are offences under sections 14 and 16 of the Bombay Abkari Act; but the words "cultivation" and "sale" are sometimes misinterpreted. It is hardly ever possible to get evidence of the sowing of hemp. The plant comes to notice only when it grows to a little height and at that stage the only evidence available is that of tending. It has been held by some courts that barter does not amount to sale. This may be legally correct but it is, certainly against the spirit of the Abkari Act. It is, therefore, necessary to make the proposed amendments.

Clause 7.—At present there is no provision for the surrender of a licence in the Abkari Act. Ordinarily, when the licence is surrendered, it is put up to auction at the risk of the licensee. If the fee realized by re-auction is less than what is payable by the licensee, the deficit is recovered from him but he is not entitled to the profit, if any, realized by Government by such re-auction. In order to give reasonable facilities to the licensee in the event of his surrendering the licence due to circumstances over which he has no control a new section is being inserted.

Clause 9.—Section 43 (1) of the Act prescribes a maximum sentence of six months' imprisonment or fine not exceeding rupees one thousand or both in the case of offences referred to therein. The manufacture of illicit liquor has become very rampant and the offence is difficult of detection. The profits from illicit distillation are large, and in view of the fact that the

offence is not always detected, it is necessary that deterrent sentences should be given in such cases. It is accordingly proposed that illicit distillation or possession of instruments for distillation etc., should be punishable with imprisonment for a term which may extend to twelve months.

It is also proposed that the same penalty should be prescribed for the importing, possessing or sale of contraband intoxicants or hemp.

Clause 10.—This clause inserts three new sections: one empowering the court convicting a person of an offence punishable under section 43 to take security for abstaining from the commission of offences under that section, and the other two providing a penalty for attempts to commit or abet an excise offence. At present the Abkari Act does not provide for any punishment for attempts and abetments of these offences.

Clause 11.—Section 49 is not comprehensive enough and the defence of *bona fide* belief is often put forward.

Clause 12.—Section 63 which provides for an annual payment to the Bombay Municipal Corporation is being omitted as it has no reference to Sind. [Vide Statement of Objects and Reasons printed at pages 531-32 of Part IV of the *Sind Government Gazette*, 1940.]

2. General amendments in Bom. V of 1878.—Throughout the Bombay Abkari Act, 1878, hereinafter called the said Act, for the words "Presidency of Bombay" or "Bombay Presidency" the words "Province of Sind" and for the word "Presidency" the word "Province" shall be substituted.

3. Amendment of section 1 of Bom. V of 1878.—In section 1 of the said Act for the word "Bombay" the word "Sind" shall be substituted.

4. Amendment of section 3 of Bom. V of 1878.—In section 3 of the said Act—

(a) in clause (5) the words "in the City of Bombay, a Presidency Magistrate, and elsewhere," shall be omitted;

(b) clause (13) shall be omitted;

(c) after clause (18) the following shall be inserted, namely:—

"(19) 'cultivation' includes the tending or protecting of a plant during its growth;

(20) 'sale' includes barter.

5. Amendment of section 4 of Bom. V of 1878.—In section 4 of the said Act the second paragraph shall be omitted.

6. Deletion of sections 14-A and 18-B of Bom V of 1878.—Sections 14A and 18B of the said Act shall be omitted.

7. Insertion of new section in Bom. V of 1878.—After section 32B of the said Act the following shall be inserted, namely:—

"32C. No holder of a licence granted under this Act to sell an intoxicant shall surrender his licence except on the expiration of one month's notice in writing given by him to the Collector of his intention to surrender the same and on payment of the fee payable for the licence for the whole period for which it would have been current but for the surrender:

Provided that if the Collector is satisfied that there is sufficient reason for surrendering the licence he may, with the previous sanction of the Revenue Commissioner for Sind, remit to the holder thereof the sum so payable on surrender, or any portion thereof.

Explanation.—The words "holder of a licence" as used in this section include a person whose tender or bid for a licence has been accepted, although he may not actually have received the licence."

8. *Amendment of section 39 of Bom. V of 1878.*—For section 39 of the said Act, for the words "of the Bombay, and Karachi Port Trusts" the words "of the Karachi Port Trust" shall be substituted.

9. *Amendment of section 43 of Bom. V of 1878.*—For section 43 of the said Act the following shall be substituted, namely:—

(1) Whoever in contravention of this Act or of any rule or order made under this Act or of any licence, permit or pass obtained under this Act—

(a) exports or transports any intoxicant or hemp, or

(b) cultivates or collects hemp, or

(c) taps any toddy-producing tree, or

(d) draws toddy from any tree, or

(e) bottles any foreign liquor, or

(f) imports, possesses or sells any intoxicant or hemp which is not contraband

shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

(2) Whoever in contravention of this Act or of any rule or order made under this Act or of any licence, permit or pass obtained under this Act—

(a) manufactures any intoxicant, or

(b) constructs or works any distillery or brewery, or

(c) uses, keeps or has in his possession any materials, still, utensil, implement or apparatus whatsoever for the purpose of manufacturing any intoxicant other than toddy,

shall, on conviction, be punished with rigorous imprisonment for a term which may extend to twelve months and fine which may extend to one thousand rupees.

(3) Whoever imports, possesses or sells any contraband intoxicant or hemp knowing the same to be contraband shall, on conviction, be punished with rigorous imprisonment for a term not exceeding twelve months and fine which may extend to one thousand rupees.

Explanation.—"contraband intoxicant or hemp" means—

(a) when used with reference to import of such articles, any intoxicant or hemp manufactured in contravention of this Act or the rules made thereunder or on which the prescribed duty has not been paid;

(b) when used with reference to possession or sale of such articles, any intoxicant or hemp which is imported, transported or manufactured in contravention of this Act or the rules made thereunder or on which the prescribed duty has not been paid."

10. *Insertion of new sections in Bom. V of 1878.*—After section 43 of the said Act the following new sections shall be inserted, namely:—

"43A. *Security for abstaining from commission of certain offences.*

—(1) Whenever any person is convicted of an offence punishable under section 43 and the Court convicting him is of opinion that it is necessary to require such person to execute a bond for abstaining from the commission of offences punishable under that section, the Court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for abstaining from the commission of such offences during such period, not exceeding three years, as it thinks fit to fix.

(2) The bond shall be in the form to be prescribed by the Provincial Government and the provisions of the Code of Criminal Procedure, 1898, shall, in so far as they are applicable, apply to all matters connected with

such bond as if it were a bond to keep the peace ordered to be executed under section 106 of that Code.

(3) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

(4) An order under this section may also be made by an appellate Court, or by the Chief Court, when exercising its powers of revision.

43B. *Attempts*.—Whoever attempts to commit an offence punishable under this Act, or to cause such an offence to be committed and in such attempt does any act towards the commission of the offence, shall be punished with the punishment provided for the offence.

43C. *Abetments*.—Whoever abets an offence punishable under this Act shall, whether such offence be or be not committed in consequence of such abetment, and notwithstanding anything contained in section 116 of the Indian Penal Code, be punished with the punishment provided for the offence.

11. *Amendment of section 49 of Bom. V of 1878*.—In section 49 of the said Act, after the word, "person" where it occurs for the second time the words "or in any other way vexatiously exceeds his lawful powers" shall be inserted.

12. *Deletion of section 63 of Bom. V of 1878*.—Section 63 of the said Act shall be omitted.

The Bombay Co-operative Societies (Sind Second Amendment) Act, 1940.

Received the assent of the Governor-General on the 27th January 1941, and is published in the *Sind Government Gazette*, Part IV, dated the 13th February 1941.

Sind Act No. XXVII of 1940.

An Act further to amend the Bombay Co-operative Societies Act, 1925, in its application to the Province of Sind.

WHEREAS it is expedient further to amend the Bombay Co-operative Societies Act, 1925, in its application to the Province of Sind, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. *Short title*.—This Act may be called the Bombay Co-operative Societies (Sind Second Amendment) Act, 1940.

Notes.

Object.—"Under the existing practice salary-earners societies advance loans to their members on their authorising their employers to deduct the amount required to meet the loan instalments from their pay-bills and to pay the amount deducted to the society. There is, however, nothing to prevent the borrower from withdrawing the authority given by him; and as mostly the borrowers have no other property from which the loan amount could be recovered it is proposed to make it obligatory for the employer to continue to make the deductions so long as the loan or other demand owing to the society or any part of it remains unpaid. [Vide Statement of Objects and Reasons, printed at pages 58-59 of Part IV of the *Sind Government Gazette*, 1940.]

2. *Insertion of new section 65A in Bom. VII of 1925*.—In the Bombay Co-operative Societies Act, 1925, after section 65 the following new section shall be inserted, namely:—

"65A. (1) A member of a Society may execute an agreement in favour of the society providing that his employer shall be competent to

deduct every month from the salary or wages payable to him by the employer such amount, not exceeding the amount prescribed by rules, as may be specified in the application and pay the amount so deducted to the society in satisfaction of any debt or other demand owing by the member to the society;

(2) On the execution of such agreement the employer shall, if so required by the society and so long as such debt or demand or any part of it remains unpaid, make the deduction in accordance with the agreement and pay the amount so deducted to the society;

(3) The provisions of this section shall also apply to all such agreements of the nature referred to in sub-section (1) as were in force on the date of the commencement of the Bombay Co-operative Societies (Sind Second Amendment) Act, 1940, but nothing herein contained shall be deemed to authorise the deduction, under any such agreement, of any amount in excess of that prescribed by the rules;

(4) Nothing contained in this section shall apply to persons employed in Federal railways (within the meaning of the Government of India Act, 1935), mines and oil-fields."

The Bombay Weights and Measures (Sind Amendment) Act, 1941.

Received the assent of the Governor on the 8th April 1941 and is published in the *Sind Government Gazette*, Part IV, dated the 24th April 1941.

Sind Act No. I of 1941.

An Act further to amend the Bombay Weights and Measures Act, 1932, in its application to the Province of Sind.

WHEREAS it is expedient further to amend the Bombay Weights and Measures Act, 1932, in its application to the Province of Sind, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Bombay Weights and Measures (Sind Amendment) Act, 1941.

2. *Extent.*—It shall apply to the whole of the Province of Sind.

3. *Amendment of section 41 of Bombay XV of 1932.*—In sub-section (3) of section 41 of the Bombay Weights and Measures Act, 1932, for clause (b) the following shall be substituted, namely:—

"(b) Any rules made by the Provincial Government under this section shall be laid upon the table of the Sind Legislative Assembly for not less than one month previous to the next session thereof. The Assembly may, at any time, by resolution rescind, modify or add to the rules."

The City of Karachi Municipal (Amendment) Act, 1941.

Received the assent of the Governor on the 8th April 1941 and is published in the *Sind Government Gazette*, Part IV, dated the 24th April 1941.

Sind Act No. II of 1941.

An Act further to amend the City of Karachi Municipal Act, 1933.

WHEREAS it is expedient further to amend the City of Karachi Municipal Act, 1933, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the City of Karachi Municipal (Amendment) Act, 1941.

Notes.

Object.—"The object of this Bill is to increase the existing number of the elected councillors of the Karachi Municipal Corporation from

44 THE CITY OF KARACHI MUNICIPAL (AMENDMENT) ACT, 1941.

56 to 57 with a view to allot an additional seat to 'Labour' whose interests in the opinion of Government, are not adequately represented on the Corporation.

2. Section 155 of the City of Karachi Municipal Act, 1933, provides that certain articles shall not be stored and certain trades and operations shall not be carried on without a licence. Similarly, section 170 provides that a licence is necessary to carry on the trade or business of a dealer in or importer, vendor or hawker of milk or milk products. But no punishment is prescribed anywhere in the Act for contravention of the provisions of the above sections. With a view to remedy these defects in the Act, it is proposed to amend the Act in the manner shown in clauses 3 and 4 of the Bill." [Vide Statement of Objects and Reasons, printed at pages 155-156 of Part IV of the *Sind Government Gazette*, 1941.]

2. *Amendment of section 8 of Bombay XVII of 1933.*—In sub-section (1) of section 8 of the City of Karachi Municipal Act, 1933, herein after called the said Act,—

(a) for the figures "64" the figures "57" shall be substituted ;

(b) for clause (f) the following shall be substituted, namely :—

"(f) 2 elected by registered trade unions each of whom shall be a labourer."

3. *Amendment of section 256 of Bombay XVII of 1933.*—In section 256 of the said Act, in the table appended thereto :—

(1) after the entry relating to section 154 the following new entry shall be inserted, namely :—

"Section 155. Keeping of certain things and carrying Fifty rupees." on of certain trades and operations without a licence.

(2) after the entry relating to section 169 the following new entry shall be inserted, namely :—

"Section 170. Carrying on the trade or business of a Fifty rupees." dealer in, or importer, vendor or hawker of, milk or milk products and using any place for the sale of milk, butter or other milk products, without a licence.

4. *Amendment of section 257 of Bombay XVII of 1933.*—In section 257 of the said Act, in the table appended thereto—

(1) after the entry relating to section 154 the following new entry shall be inserted, namely :—

"Section 155. Keeping of certain things and carrying Ten rupees." on of certain trades and operations without a licence.

(2) after the entry relating to section 161, sub-section (1), the following new entry shall be inserted, namely :—

"Section 170. Carrying on the trade or business of a Ten rupees." dealer in, or importer, vendor or hawker of, milk, or milk products and using any place for the sale of milk, butter or other milk products, without a licence.

5. *Filling up of additional seat.*—The additional seat allotted to registered trade unions in consequence of the amendment made by section 2 of this Act shall be filled, as soon as conveniently may be, after this Act,

comes into force and, subject to the provisions of the said Act, the councillor so elected shall hold office up to noon on the first day of May 1945.

The Sind Ministers' Salaries Act, 1941.

Received the assent of the Governor on the 8th April 1941 and is published in the *Sind Government Gazette*, Part IV, Extraordinary, dated the 22nd April 1941.

Sind Act No. III of 1941.

An Act to repeal the Sind Ministers' Salaries Act, 1937, and to provide for the salaries and allowances of the Ministers of the Government of Sind.

WHEREAS provision has been made in sub-section (3) of section 51 of the Government of India Act, 1935, for determining from time to time, by Act of the Provincial Legislature the salaries of the Governor's Council of Ministers; and whereas it is expedient to change the existing rates of salaries which have been found to be inadequate; It is hereby enacted as follows:—

1. Short title and commencement.—(1) This Act may be called the Sind Ministers' Salaries Act, 1941.

(2) It shall be deemed to have come into force with effect from the 8th March 1941.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(a) "Minister" means a Minister appointed under section 51 of the Government of India Act, 1935;

(b) "prescribed" means prescribed by rules made under this Act;

(c) "Government" means the Government of Sind.

3. Salary of Ministers.—There shall be paid to each Minister a salary at the rate of one thousand five hundred rupees per mensem.

4. Travelling allowances of Ministers.—Every Minister shall be entitled, while touring on public business, to travelling and daily allowances at such rates and upon such conditions as may be prescribed.

5. Provision as to house rent.—A Minister shall not be entitled to occupy for his residence a house belonging to Government but where such a house is available for the use of a Minister he may occupy it for his residence on the following terms, namely:—

(a) the house shall be furnished at the cost of Government in accordance with such scale as may be prescribed;

(b) the grounds appurtenant to the house shall be maintained by Government;

(c) all rates and taxes and all charges for the supply of water and electricity shall be paid by Government;

(d) the Minister shall pay rent for the house at the rate of four hundred and fifty rupees per mensem.

6. Provision as to motor cars.—A Minister shall not be entitled to use a motor car belonging to Government but if such a motor car is available for the use of a Minister he may use it on the following terms, namely:—

(a) the Minister shall pay two hundred rupees per mensem for the use of the motor car;

(b) the Minister shall at his own cost keep and maintain the motor car

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in efficient running order and also pay the cost of propulsion of the motor car;

(c) all taxes leviable in respect of the motor car and the cost of insuring it shall be paid by Government.

7. Occupation of house after the Minister has resigned his office.—Subject to the provisions of section 5, an outgoing Minister who is in occupation of a house belonging to Government shall, if he so chooses, be entitled to retain its occupation for a period not exceeding one month from the date of acceptance of the resignation of his office or of the termination of his appointment.

8. Rules.—Rules made under this Act shall be laid upon the table of the Sind Legislative Assembly at the session of the Assembly next following and shall be liable to be modified or rescinded by a resolution of the said Assembly and the modification or rescission so made shall after publication in the *Official Gazette* be deemed to have come into force.

9. Repeal of Sind Act I of 1937.—The Sind Ministers' Salaries Act, 1937, is hereby repealed with effect from the 8th March 1941.

The Sind Legislative Assembly (Speaker's and Deputy Speaker's Salaries) (Amendment) Act, 1941.

Received the assent of the Governor on the 8th April 1941 and is published in the *Sind Government Gazette*, Part IV, Extraordinary, dated the 22nd April 1941.

Sind Act No. IV of 1941.

An Act to amend the Sind Legislative Assembly (Speaker's and Deputy Speaker's Salaries) Act, 1937.

WHEREAS it is expedient to amend the Sind Legislative Assembly (Speaker's and Deputy Speaker's Salaries) Act, 1937, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. Short title and commencement.—(1) This Act may be called the Sind Legislative Assembly (Speaker's and Deputy Speaker's Salaries) (Amendment) Act, 1941.

(2) It shall be deemed to have come into force with effect from the 8th March 1941.

2. Amendment of section 2 of Sind Act II of 1937.—In sub-section (1) of section 2 of the Sind Legislative Assembly Speaker's and Deputy Speaker's Salaries) Act, 1937, for the words "eight hundred" the words "twelve hundred and fifty" shall be substituted.

The Bombay Land Revenue Code (Sind Amendment) Act, 1941.

Received the assent of the Governor on the 15th April 1941 and is published in the *Sind Government Gazette*, Part IV, dated the 24th April 1941.

Sind Act No. V of 1941.

An Act further to amend the Bombay Land Revenue Code, 1879, in its application to the Province of Sind.

WHEREAS it is expedient further to amend the Bombay Land Revenue Code, 1879, in its application to the Province of Sind, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Bombay Land Revenue Code (Sind Amendment) Act, 1941.

Notes.

Object.—“Under section 216 of the Bombay Land Revenue Code, 1879, as it stands at present, alienated lands cannot be surveyed nor can survey settlement be introduced with respect to such lands except on the written application of the holder. The result has been that some of the jagir lands are still unsurveyed involving considerable leakage of land revenue. Then again, in the absence of a survey settlement the jagirdari dues are determined by usage or by agreement between the jagirdar and the inferior holders though unalienated lands in the neighbourhood would be liable to the payment of settlement rates. In case where the customary dues levied are less than the settlement rates of assessment, the jagirdars get the settlement rates enforced; but where the customary dues are higher than the settlement rates the request of the occupants in the jagir for the levy being restricted to not more than the settlement rates cannot be given effect to. In order to remove these anomalies it is proposed to empower the Revenue Commissioner for Sind to apply the provisions of Chapters VIII and IX dealing with surveys, assessments and settlements of land revenue and the settlement of boundaries, etc., to alienated lands even though no application may have been made by the holder. Alienated lands to which the provisions of these Chapters are not extended will continue to be governed by sub-section (2) of section 216 as now amended.

2. It is further proposed to provide that the cost of survey shall be borne not by the holder (which expression would include an occupant) but by the jagirdar. (Vide Statement of Objects and Reasons, printed at page 642 of Part IV of the *Sind Government Gazette*, 1940.)

2. *Amendment of section 111 of Bombay V of 1879.*—In section 111 of the Bombay Land Revenue Code, 1879 (hereinafter called the said Act), after the word “estate”, where it occurs for the first time, the words, “not falling under sub-section (1A) of section 216,” shall be inserted.

3. *Amendment of section 216 of Bombay V of 1879.*—In section 216 of the said Act—

(1) after sub-section (1) the following sub-sections shall be inserted, namely:—

“(1A) Notwithstanding anything contained in this Act, the Revenue Commissioner for Sind shall, within a period of three years from the date of the commencement of the Bombay Land Revenue Code (Sind Amendment) Act, 1941, extend the whole of Chapters VIII and IX or such of the provisions thereof as may be applicable to all culturable alienated lands or villages commanded by irrigation canals.

(1B) Subject to the provisions of sub-section (1A) and notwithstanding anything contained in this Act, the Revenue Commissioner for Sind may, at any time, extend the whole or any part of Chapters VIII and IX to any alienated land or village other than those mentioned in sub-section (1A).

(1C) Where a survey is directed under Chapter VIII, either under sub-section (1A) or (1B), half of the cost of the survey shall, notwithstanding anything hereinbefore contained, be borne by the Provincial Government and half by the Mukbadim of the land concerned, or, if there is no Mukbadim, by the Jagirdar.”

(2) in sub-section (2) the words beginning with "unless" and ending with "unalienated share" shall be omitted.

(3) sub-section (3) shall be omitted.

The Bombay Abkari (Sind Amendment) Act, 1941.

Received the assent of the Governor on the 21st April 1941 and is published in the *Sind Government Gazette*, Part IV, dated the 1st May, 1941.

Sind Act No. VI of 1941.

An Act to amend the Bombay Abkari Act, 1878, in its application to the Province of Sind.

WHEREAS it is expedient to amend the Bombay Abkari Act, 1878, so as to remove doubts as to the powers of the Provincial Government and other authorities to make and issue rules, orders and notifications for the purpose of promoting, enforcing and carrying into effect the policy of Prohibition in the Province of Sind; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Bombay Abkari (Sind Amendment) Act, 1941.

Notes.

Object—“On the 21st September 1939 the Government of Sind issued a notification under section 11 and sub-section (2) of section 14-B of the Bombay Abkari Act, 1878, prohibiting the import into, export from and transport in the Province of Sind and possession by any person within the Province of Sind of charas or any preparation or admixture thereof.

On the 20th March 1941 the Chief Court of Sind held that the said notification was *ultra vires* and of no effect.

The present Bill seeks to amend the Bombay Abkari Act, 1878, in order to enable Government to enforce the policy of prohibition as and when deemed necessary “[Vide Statement of Objects and Reasons, printed at page 159 of Part IV of the *Sind Government Gazette*, 1941].

2. *Amendment of preamble of Bombay V of 1878.*—In the preamble of the Bombay Abkari Act, 1878, hereinafter called the said Act, after the words “Province of Sind” the words “and whereas in order to promote, enforce and carry into effect the policy of Prohibition, it is necessary to prohibit the import, export, transport, manufacture, sale and possession of liquor and of intoxicating drugs in the Province or in specified area thereof” shall be inserted.

3. *Amendment of section 3 of Bombay V of 1878.*—In section 3 of the said Act, after clause (20) the following new clause shall be inserted, namely:—

“(21) ‘Province’ means the Province of Sind.”

4. *Substitution of the heading to Chapter IV of Bombay V of 1878.*—For the heading to Chapter IV of the said Act, the following shall be substituted, namely:—

“IV. Cultivation, Manufacture and Possession.”

5. *Amendment of section 14B of Bombay V of 1878.*—In section 14B of the said Act, in sub-section (2), for the words “any person or class of persons” the words “any individual or a class or body of individuals or the public generally” shall be substituted.

6. *Indemnity.*—No prosecution, suit or other proceeding shall lie against any person for anything in good faith done or intended to be done in pursuance of any rule, order or notification made or issued under the

said Act which would have been valid if this Act had been passed before the date of such rule, order or notification.

The Sind Agriculturists Relief (Amendment) Act, 1941.

Received the assent of the Governor-General on the 1st May 1941 and is published in the *Sind Government Gazette*, Part IV, dated the 15th May, 1941.

Sind Act No. VII of 1941.

An Act to amend the Sind Agriculturists Relief Act, 1940.

WHEREAS it is expedient to amend the Sind Agriculturists Relief Act, 1940, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Sind Agriculturists Relief (Amendment) Act, 1941.

Notes.

Object.—“Under section 13 of the Sind Agriculturists Relief Act, 1940, debts due under decrees can be scaled down and for this purpose the decree could be amended. The section, however, provides that the application for the amendment of a decree should be made within 90 days of the commencement of the Act. This provision was not given sufficient publicity and accordingly, in the large majority of cases, no advantage has been taken of this section. With a view to remove this hardship it is proposed that an application under section 13 may be made at any time within 90 days of the commencement of the amending Act.”

It is possible that some applications may have been dismissed or withdrawn on the ground that they were made beyond time. It is proposed to revive such applications and on such revival they will be dealt with in accordance with the provisions of section 13. [Vide Statement of Objects and Reasons, printed at page 152 of Part IV of the *Sind Government Gazette*, 1941.]

2. *Amendment of section 13 of Sind VIII of 1940.*—(1) Section 13 of the Sind Agriculturists Relief Act, 1940 (hereinafter called the said Act), shall have effect as if for the period of 90 days to be reckoned from the commencement of the said Act there were substituted a period of 90 days to be reckoned from the commencement of this Act

(2) If any application made under section 13 of the said Act has been dismissed or withdrawn in a court of first instance or on revision or appeal by reason only that the application was made more than 90 days from the commencement of the said Act, the application shall be restored or revived:

Provided that in the event of the said application being so restored or revived the court shall be bound by the finding of the former court by or before whom the application was dismissed or withdrawn on any issue of fact which was heard and finally determined by it.

The Bombay Land Revenue Code (Sind Second Amendment) Act, 1941.

Received the assent of the Governor-General on the 10th May 1941 and is published in the *Sind Government Gazette*, Part IV, dated the 5th June 1941.

An Act further to amend the Bombay Land Revenue Code, 1879, in its application to the Province of Sind.

Sind Act No. VIII of 1941.

WHEREAS it is expedient further to amend the Bombay Land Revenue Code, 1879, in its application to the Province of Sind, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Bombay Land Revenue Code (Sind Second Amendment) Act, 1941.

Notes.

Object.—"Government lands in the Barrage area are generally sold on the instalment basis. In the past, a piece of land has been given out to two or more persons in specified shares, with the condition that the purchasers will be jointly and severally liable for the payment of further instalments. But it has been noticed on many occasions that one or more of the co-sharers deliberately default in the payment of their share of the dues and the remaining co-sharers are unable to pay the instalments in respect of the entire grant. In such circumstances, the Revenue Officer is left with no other option than the cancellation of the whole grant. Government are of the opinion that such action is unduly severe on those co-sharers who are willing and able to pay only their share of the dues. Government have recently passed orders prohibiting the making of joint grants in future, but the difficulties pointed out above will persist in respect of the grants already made, either when they are joint or when a grantee dies and his land is inherited by a number of people. Government have, therefore, decided that in order to provide relief in such cases, it is necessary to amend the Land Revenue Code so as to enable the Collector to sub-divide a grant, when the grantees are more than one, and cancel those parts of it for which malkano has not been paid and continue the remainder in the names of the co-sharers who undertake to pay the proportionate instalments, after ascertaining the amount paid by or on behalf of each co-sharer. "[Vide Statement of Objects and Reasons, printed at page 157 of Part IV of the *Sind Government Gazette*, 1941].

2. *Insertion of new section 82A in Bombay V of 1879.*—After section 82 of the Bombay Land Revenue Code, 1879, the following new section shall be inserted, namely:—

"82A. *Partition of occupancies sold on instalment terms.*—When an occupancy is sold to, or is for the time being held by, more than one person in defined shares on condition that the occupancy price shall be paid in instalments and default is made in the payment of any such instalment the following provisions shall have effect, namely:—

(1) if a co-sharer in such occupancy has paid in respect of his share all the amount due until the date of such default, proportionate to such share, the Collector may, notwithstanding anything contained in the agreement of sale in respect of such occupancy or any law for the time being in force, sub-divide the occupancy and keep the agreement alive with respect to such share and cancel it with respect to the rest of the occupancy;

(2) the agreement of sale shall have effect as respects such share as if for the occupancy price and the instalments specified therein an amount proportionate to such share or instalments were substituted;

(3) when an occupancy has been sub-divided as aforesaid the Collector shall partition the land in accordance with such sub-division."

The Sind Debt Conciliation Act, 1941.

Received the assent of the Governor-General on the 21st May 1941 and is published in the *Sind Government Gazette*, Part IV, dated the 5th June 1941.

Sind Act No. IX of 1941.

An Act to make provision for the setting up of Debt Conciliation Boards to relieve agriculturists from indebtedness.

WHEREAS it is expedient to relieve agriculturists from indebtedness by amicable settlement between them and their creditors; It is hereby enacted as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Sind Debt Conciliation Act, 1941.

(2) It shall extend to the whole of the Province of Sind.

(3) It shall come into force on such date as the Provincial Government may, by notification, direct.

Notes

Object.—“Of recent years agricultural indebtedness has attracted wide spread attention throughout India, and laws providing for the conciliation of agriculturists' debts have been enacted in many provinces, both before and after the introduction of Provincial Autonomy. One of the earliest of such Acts was passed in the Central Provinces in 1933, and the reports on its working show that it has been widely availed of, and has resulted in the amicable settlement of debts at a figure between forty and fifty per cent. of the amount claimed. It has thus benefited debtor and creditor alike, the former by relieving him of interest accumulating at excessive rates, and the latter by affording him early payment of his dues without recourse to the Civil Court.

The Bill provides for the appointment of Conciliation Boards in any district or part thereof, and by adopting the definition of “agriculturist” used in the Dekkhan Agriculturists' Relief Act, brings a large section of the public within its scope. The basis of the Bill is voluntary settlement, but it also provides that if a debtor makes a reasonable offer which is accepted by forty per cent. of his creditors, the others may be compelled to agree to it. Applications may be made to the Boards by both debtors and creditors. It confers substantial advantages on creditors who reach an amicable settlement with debtors, and penalises those who unreasonably refuse to do so, by depriving them of their costs in subsequent proceedings as well as of interest in excess of simple interest at six per cent.

The Bill, though framed with a view to the special needs of Sind, has been drafted after careful scrutiny of the Acts of other Provincial Legislatures, and is believed to contain all their most satisfactory features.” [Vide Statement of Objects and Reasons, printed at pages 576-577 of Part IV of the *Sind Government Gazette*, 1939.]

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) the expressions “land”, “holding” and “village” shall have the meanings assigned to them in the Bombay Land Revenue Code, 1879;

(b) “Board” means a Debt Conciliation Board established under section 3;

(c) “creditor” means a person to whom a debt is owing but shall not include a Co-operative Society;

(d) "debt" includes all liabilities owing to a creditor, in cash or kind, secured or unsecured, payable under a decree or order of a civil court or otherwise, whether due or not due but shall not include arrears of wages, land revenue or anything recoverable as an arrear of land revenue, or any money for the recovery of which a suit is barred by limitation or any money advanced by a banking company as defined in section 277F of the Indian Companies Act, 1913, or any debt incurred for the purpose of trade or business not connected with agriculture;

(e) "debtor" means an agriculturist whose debts exceed one hundred rupees but do not exceed fifty thousand rupees;

Explanation.—In computing the total amount of debts for the purpose of this clause debts excluded under clause (d) shall also be taken into consideration.

(f) "agriculturist" shall have the same meaning as in the Deccan Agriculturists' Relief Act, 1879, but shall not include a person who has in any one of the three years preceding that in which the question of his status as a debtor under this Act arises paid, as assessment, eight thousand rupees or more;

Explanation.—For the purposes of this clause 'hakabo' payable in respect of alienated land shall be deemed to be assessment and in calculating the assessment paid by the debtor twice the amount paid as 'hakabo' shall be reckoned as the assessment paid in respect of such land.

(g) "prescribed" means prescribed by rules made under this Act.

Notes.

The definitions of 'creditor' and 'debt' exclude debts due to Co-operative Societies as well debts incurred for the purpose of trade or business not connected with agriculture. The definition of "agriculturist" excludes persons who pay more than eight thousand rupees assessment or four thousand rupees 'hakabo' or whose debts exceed fifty thousand rupees.

3. *Establishment of Debt Conciliation Board.*—(1) The Provincial Government may establish one or more Debt Conciliation Boards for a district. A Board shall consist of one member called the Conciliation Officer who shall be assisted by two Advisers. The Advisers shall advise the Conciliation Officer in the discharge of his functions under this Act and shall enter upon their duties after a notice has been issued under sub-section (1) of section 9.

(2) The Conciliation Officer shall be a person who holds or has held an office not lower in rank than that of a First Class Subordinate Judge or an Assistant Collector or a Deputy Collector of the first grade.

(3) The Provincial Government shall have the power to transfer a Conciliation Officer from one Board to another or to dissolve any Board; and from the date of such dissolution the Board shall cease to exist.

(4) When a Board is dissolved or otherwise ceases to exist, the Provincial Government may at any time establish another Board for the area for which the former Board was established and may declare the Board newly established to be the successor in office of the Board which has ceased to exist and such Board shall exercise all the powers under the Act.

Notes.

This section provides that the Board shall consist of 3 members of

whom 2 shall be advisers. It is also provided that the Conciliation Officer shall be a person who holds or has held an office not lower in rank than that of a First Class Subordinate Judge, or an Assistant Collector or a Deputy Collector of the first grade.

4 Application for settlement between debtor and his creditors.

(1) A debtor or any of his creditors may apply to the Board appointed for the area in which the debtor ordinarily resides to effect a settlement between the debtor and his creditors.

(2) No debtor or creditor shall make more than one application to a Board and where applications have been made by the debtor and any of his creditors, the applications made by the creditors shall be consolidated with the application made by the debtor.

(3) If applications for the settlement of the debts of the same debtor are made to more than one Board, such applications shall, in accordance with rules made under this Act, be transferred to and dealt with by one Board as one single application.

(4) In case of dispute it shall be competent to the Board to decide whether the debtor is an agriculturist or not and, subject to the provisions of sub-section (5), the decision of the Board shall be final.

(5) Any person aggrieved by an order passed under sub-section (4) may appeal against such order to the District Judge having jurisdiction in the area for which the Board is constituted;

Provided that where the District Judge is a member of the Board which passed the order no appeal shall lie against such order.

5. Verification of application.—Every application to a Board shall be in writing and shall be signed and verified in the manner prescribed.

6. Particulars to be stated in application.—(1) Every application presented by a debtor to the Board shall contain the following particulars, namely :—

(a) the place where he resides;

(b) the amount and particulars of all claims against him, together with the names and residences of his creditors so far as they are known to, or can, by the exercise of reasonable care and diligence, be ascertained by him; and

(c) particulars of the debtor's property both moveable and immoveable (including claims due to him), a specification of the value thereof and the places where the same may be found and details of any mortgage, lien or charge subsisting thereon.

(2) Every application presented by the creditor shall contain the following particulars, namely :—

(a) the place where the debtor resides; and

(b) the amount and particulars of his claim against such debtor.

7. Rejection of application.—If the application does not comply with any of the requirements mentioned in sections 5 and 6, the Board may return the application for amendment. If the application is not amended within the time fixed by the Board or within such further time as the Board may allow the application shall be rejected. The rejection of an application under this section shall preclude the applicant from making a second application within twelve months from the date on which the first application was rejected.

Notes.

This section provides that if the application is dismissed on account of the debtor's default to comply with the requirements of sections 5 and 6, a

second application will not be entertained before 12 months from the date on which the first application was dismissed.

8. Procedure on application.—(1) On receipt of an application under section 4 the Board shall, unless it rejects the application under section 7, pass an order fixing a date and place for hearing the application.

(2) Notice of the order under sub-section (1) shall be served on the debtor and creditors in the manner prescribed.

(3) If the application under section 4 is made by the creditor and the debtor wilfully fails to appear after service of notice under sub-section (2) or having appeared wilfully fails to furnish the particulars mentioned in sub-section (1) of section 6, the application shall be rejected. If an application is rejected under this sub-section the debt due to the creditor making such application shall, if a suit is instituted in respect of such debt before a fresh application under section 4 has been made, be excluded from the operation of this Act unless the creditor agrees that it may not be so excluded.

(4) If the application is made by a creditor the debtor shall, on his appearance, furnish the particulars mentioned in sub-section (1) of section 6 and notice shall be sent to all creditors specified by him.

Notes.

The scheme of the Act is that it is not obligatory on the debtor to agree to any settlement even though such a settlement is considered by the Board to be fair and reasonable. If the creditor makes an application for conciliation the debtor can refuse to appear before the Board or refuse to furnish a statement of his debts or decline conciliation or settlement. In such a case the section provides that if after his application is dismissed the creditor files a suit for his money the debtor cannot compel any settlement of that debt unless the creditor agrees.

9 Notice calling upon creditors to submit statements of debts.—

(1) If, after examining the debtor, it is in the opinion of the Board practicable to attempt to effect a settlement between him and his creditors, a notice shall be issued and served and published in the manner prescribed, calling upon every creditor of the debtor to submit a statement of debts owed to such creditor by the debtor. Such statement shall be in writing and shall be signed and verified in the manner prescribed and shall be submitted to the Board within two months from the date of service or publication of the notice as the case may be:

Provided that if the Board is satisfied that any creditor was, for good and sufficient cause, unable to comply with such directions, it may extend the period for the submission of his statement of the debt owed to him by not more than two months.

(2) Subject to the provisions of sub-section (3) where a creditor wilfully fails to submit, a statement of the debt due to him in compliance with the provisions of sub-section (1) such debt shall, except where the application in respect of which the notice is issued under sub-section (1) is dismissed under section 13, be deemed for all purposes and all occasions to have been duly discharged.

(3) If a creditor proves to the satisfaction of the Board that the notice was not served on him or that he had no knowledge of publication thereof or that for some other sufficient reason he was unable to submit the statement, the Board may revive the debt if the creditor files an application in that behalf within two months after he becomes aware of the proceedings taken under this section.

(4) If the Board declines to revive the debt an appeal shall lie against such order to the District Judge having jurisdiction in the area for which the Board is constituted and the District Judge may reverse, modify or confirm the order of the Board :

Provided that where the District Judge is a member of the Board which passed the order no appeal shall lie against such order.

10. Procedure on submission of statement of debts.—(1) Every creditor submitting a statement of the debts owed to him in compliance with a notice issued under sub-section (1) of section 9 shall furnish, along with such statement, full particulars of all such debts and shall at the same time produce all documents including entries in books of account on which he relies to support his claims, together with a true copy of every such document.

(2) The Board shall, after marking for the purpose of identification every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the creditor.

(3) If any document which is in the possession or under the control of the creditor is not produced by him as required by sub-section (1), the document shall not be admissible in evidence against the debtor in any suit brought by the creditor or by any persons claiming under him for the recovery of the debt.

Provided that the Board or the Court shall have the power to excuse for valid reasons any default or delay in producing the document or to grant reasonable time for producing the same in any proceeding pending before it.

11. Power of Board to decide dispute as to the existence or amount of debts or assets.—The Board shall call upon the debtor and each creditor, respectively, to explain his case regarding each debt.

(2) If there is a dispute as to the existence or the amount of the debt due to any creditor or the assets of any debtor, the Board may decide the matter after taking such evidence as may be adduced by all the parties concerned and such decision shall be binding on all parties in all proceedings before the Board.

Provided that a decree of a Civil Court relating to a debt shall be conclusive evidence as to the existence and amount of debt, unless the decree is *ex-parte* or has been obtained by fraud or collusion or has been passed after the date of an application under section 4.

Explanation.—A decree shall not be deemed to be *ex-parte* if the debtor has appeared in the proceedings at any time before the decree is passed.

(3) An appeal against an order of the Board under sub-section (2) shall lie to the District Judge having jurisdiction in the area for which the Board is constituted :

Provided that where the District Judge is a member of the Board which passed the order the appeal shall lie to the Chief Court of Sind :

Provided further that when the amount of the debt is five hundred rupees or less no appeal shall lie against an order of the Board.

(4) The Board shall prepare a complete schedule of the creditors and of the assets and liabilities of the debtor.

12. Powers of Board.—(1) Subject to rules made under this Act, a Board may exercise all such powers connected with the summoning and examining of parties and witnesses and with the production of documents as are conferred on a Civil Court by the Code of Civil Procedure, 1908.

(2) Any person present may be required by a Board to furnish any information or to produce any document then and there in his possession or power.

13. Dismissal of application.—(1) An application under section 4 may be dismissed by the Board at any stage of the proceedings,—

(a) if, for reasons to be stated in writing, the Board does not consider it practicable to effect a settlement of the debts; or

(b) if, in the opinion of the Board, the applicant fails to pursue his application with due diligence:

Provided that when such applicant is a creditor, the Board, instead of dismissing such application, may substitute the debtor or any other creditor, who shall thereafter be deemed to be the applicant for the purposes of this Act; or

(c) if the application includes a claim which, in the opinion of the Board is collusive and is intended to defraud any creditor.

(2) The dismissal of an application under clause (c) of sub-section (1) shall not preclude the applicant from making a fresh application in respect of debts which are neither collusive nor intended to defraud any creditor:

Provided that no such application shall be entertained except after the expiry of six months from the date of the order made on the previous application.

(3) No order dismissing an application under sub-section (1) shall be passed by the Board unless the applicant has been afforded an opportunity to be heard in the matter.

14. Settlement of debts.—(1) (a) When any creditor agrees in respect of any debt owing to him to an amicable settlement with the debtor, the Board shall embody such settlement in writing; or

(b) when creditors to whom there is owing not less than forty per cent. of the total debt agree to an amicable settlement with the debtor, the Board, if it considers that an offer made by the debtor for the settlement of any debt not included in the amicable settlement is a fair offer which the creditor concerned ought reasonably to accept, may pass an order that the debt to which the offer relates shall be settled in accordance with such offer.

Provided that for the purposes of this clause an offer shall not be considered by the Board to be a fair offer—

(i) if its terms are less favourable than the terms of the amicable settlement relating to a debt of the same description, or

(ii) if it contemplates the reduction of any debt to an amount which is less than the original principal of the debt plus simple interest at the rate of six per cent. per annum as determined under sub-section (2) of section 11, unless creditors to whom there is owing not less than sixty-six per cent. of the total debt agree to the proposed reduction.

(2) The terms of any settlement of debt under sub-section (1) shall forthwith be reduced to writing in the form of an agreement recording the amounts payable to the creditors and the manner in which, the assets from which and the times at which, they are to be paid. Such agreement shall be read out and explained to the parties concerned and shall be signed or otherwise authenticated by the Board and the parties who have agreed to the amicable settlement.

(3) The order under clause (b) of sub-section (1) shall be in the form of an award and shall specify such details as may be prescribed.

(4) An agreement made under sub-section (2) or an award passed under sub-section (3) shall, within 30 days of the making thereof, be registered under the Indian Registration Act, 1908, by the Conciliation Officer in such manner as may be prescribed and it shall then take effect as if it were a decree of a civil court.

(5) For the purpose of the registration of an agreement or award under sub-section (4) the Conciliation Officer shall be deemed to be an officer of Government empowered to execute such agreement or award within the meaning of section 88 of the Indian Registration Act, 1908.

(6) If after the making of an agreement under sub-section (2) or the framing of an award under sub-section (3) any debt is revived by the Board under sub-section (3) or by the District Judge under sub-section (4) of section 9, the agreement and the award and all proceedings taken in pursuance thereof shall stand cancelled; the application under section 4 shall be deemed to have been received in the office of the Board on the date of such revival, and all the provisions of this Act shall apply in respect of the application accordingly.

(7) If after the making of an agreement under sub-section (2) or the framing of an award under sub-section (3) any debt is disallowed or allowed on appeal under sub-section (3) of section 11, whether wholly or in part, the agreement or award, as the case may be, shall be modified by the Board in accordance with the order passed on such appeal.

Notes.

Under this section, if creditors, to whom not less than 40 per cent. of the total debt is owing agree to accept the principal and 6 per cent. interest, the Board can compel the remaining 60 per cent. to agree to those terms. It is also provided that if the creditors to whom 66 per cent. of the total debts is due agree to reduce the principal or waive the interest, then in that case too the remaining 34 per cent. would be bound to accept the settlement.

15. Transfer of application.—(1) The Revenue Commissioner for Sind may, subject to rules made under this Act, transfer from one Board to another, for disposal, applications made under section 4.

(2) A Board to which an application is transferred under sub-section (1) may continue the proceedings in connection with the application from the stage which has been reached when the application is transferred.

16. Properties exempt from attachment not to be taken into account.—In any scheme of debt conciliation under this Act, such properties as are exempt from attachment under the Code of Civil Procedure, 1908, shall not be taken into account and shall be left to the judgment debtor free from any liability for his debts.

17. Maximum amount allowable in satisfaction of a debt.—In any scheme of debt conciliation under this Act, no creditor shall be allowed a greater amount in satisfaction of both principal and interest than twice the amount of principal originally borrowed:

Provided that interest shall not be allowed at a rate exceeding nine per cent. per annum simple:

Provided further that where at any time up to the date of the agreement or award a creditor has received twice or more than twice the amount of the principal originally borrowed no interest shall be allowed on the amount of principal remaining unpaid as from the date of such agreement or award.

Notes.

This section provides that interest shall not be allowed at a rate exceeding 9 per cent. per annum simple interest and that if at any time up to the

date of the agreement or award a creditor has received twice the amount of principal or more no further interest shall be allowed.

18. Power of Board to dismiss application.—(1) If no amicable settlement is arrived at under sub-section (1) of section 14 within twelve months of the date of issue of the notice under sub-section (1) of section 9, the application made under section 4 shall be dismissed and, if the Board considers that the debtor has made any creditor a fair offer which the creditor ought reasonably to accept, it shall proceed under section 24.

(2) In computing the period of twelve months under sub-section (1) the period during which an appeal in any proceeding upon application under section 4 is pending shall be excluded.

(3) When the application is dismissed under sub-section (1), no second application shall lie before the expiry of three years from the date on which the first application was dismissed;

Provided that in proceedings upon such second application the amount of any debt due under a decree obtained by a creditor after the dismissal of the first application shall not be varied without the consent of such creditor unless it is proved to the satisfaction of the Board that such decree was obtained by fraud or collusion.

(4) If the second application made under sub-section (3) is dismissed no fresh application shall lie under this Act.

Notes.

This section provides that if no amicable settlement is arrived at within the specified period, no second application shall be entertained before the expiry of three years from the date on which the first application was dismissed and that in proceedings on second application decrees obtained during the intervening period shall not be varied without the consent of the creditor concerned.

19. Existing mortgage, lien, charge, pledge or hypothecation to subsist.—Where an agreement or an award registered under sub-section (4) of section 14 relates to a debt which is secured by a mortgage, lien or charge on any immoveable property or by the pledge or hypothecation of any moveable property of a debtor, such mortgage, lien, charge, pledge or hypothecation shall subsist to the extent of the amount payable to the creditor in respect of such debt in accordance of the terms of the agreement or of the award until such amount has been paid or the property has been sold for the satisfaction of such debt.

20. Recovery of sums due under agreement or award.—(1) If a debtor defaults in paying any amount due in accordance with the terms of an agreement or an award registered under sub-section (4) of section 14 such amount shall be recoverable by the Collector, in the manner hereinafter indicated, on the application of the creditor made to the Collector within 90 days of the date of default.

(2) Secured debts shall be recoverable from the property on which they are secured as if a decree for the amount of such debts had been passed by a civil court and transferred to the Collector for execution under section 68 of the Code of Civil Procedure, 1908.

(3) Notwithstanding anything contained in any law for the time being in force, unsecured debts shall be recoverable from the property of the debtor: provided that in effecting the recovery the Collector shall proceed in the following order, that is to say, the amount shall be recovered—

firstly, by the sale of moveable property of the debtor ;
secondly, by the sale of immoveable property, other than agricultural land of the debtor ;

thirdly, if the Collector is of opinion that the amount can be raised by leasing on payment of a premium or by mortgaging such agricultural land of the debtor as in the opinion of the Collector, is not required for the support of the debtor and of the members of the family dependent on him, by taking possession of such land and by leasing on payment of a premium or mortgaging the whole or any part of such property ;

fourthly, by selling the agricultural land of the debtor or such part thereof as may be sufficient to realize the amount for the time being payable under the agreement or award.

(4) Where the Collector has, under sub-sections (1), (2) and (3), recovered any amount which was payable in accordance with the terms of an agreement or an award he shall proceed to make payments as follows :

(a) he shall, in the first instance, apply the sum realised, from the sale of any portion of the property referred to in section 19 to the payment of any amount payable under the agreement or award on account of a debt which is secured by a mortgage, lien, charge, pledge or hypothecation of or on such property in order of priority determined in accordance with the provisions of the Transfer of Property Act, 1882, and, if the said sum is insufficient to meet such payments, the amounts which have remained unpaid shall rank equally with unsecured debts ;

(b) if there is a surplus after the payments have been made under clause (a), the Collector shall apply to the payment of any other amounts payable under the agreement or the award the sum of the surplus and of the proceeds realized from the sale of such portion of any other property of the debtor as will, together with the surplus, be sufficient to meet the payment of such amounts ;

(c) if the sum of the surplus and sale proceeds referred to in clause (b), is insufficient to meet the payment of secured debts which have been ranked with unsecured debts and unsecured debts, all such debts shall rank equally between themselves, for the purposes of payment ;

(d) any further surplus remaining after the payments have been made under clauses (a), (b) and (c) shall be paid by the Collector to the debtor.

(5) Where the Collector fails, under sub-sections (1), (2) and (3) to recover any part of the amount referred to therein, he shall certify that it is irrecoverable by him and thereupon any amount which was payable under such agreement or award but has not been paid shall be recoverable as if a decree of a civil court had then been passed for its payment.

(6) An appeal against an order passed by the Collector under this section shall lie to the Revenue Commissioner for Sind.

21. Power to deposit amount of instalment with Collector.—

(1) If a creditor refuses to accept any amount tendered to him by his debtor in accordance with the terms of an agreement or award registered under sub-section (4) of section 14 or if, in any case the debtor is doubtful as to the person entitled to receive such amount, the debtor may apply to the Collector to deposit such amount with him

(2) An application made under sub-section (1) shall be in writing and shall contain—

(a) a statement of the grounds on which it has been made,

(b) the name of the creditor to whose credit the deposit is to be entered, and

(c) the name of the person to whom payment was last made and of the person now claiming it.

22. Grant of receipt for deposit.—(1) If it appears to the Collector that the applicant is entitled to make the deposit under section 21, he shall receive such deposit and give a receipt therefor.

(2) *Payment of deposit.*—The Collector shall cause a notice of such deposit to be served on every person who, he has reason to believe, claims or is entitled to it and may pay the amount thereof to any person appearing to him to be entitled to it, or may retain it, pending the decision of a Civil Court as to the person entitled to it.

(3) A debtor who has made a deposit under section 21, shall be held to have fulfilled the terms of the agreement or award.

23. Bar of suits and other legal proceedings.—No suit or other legal proceeding shall be instituted against the Crown or any officer of the Crown in respect of anything done or purporting to, have been done regarding a deposit under this Act, but nothing in this section shall prevent any person entitled to recover the amount from recovering it from any person to whom it has been paid under sub-section (2) of section 22.

24. Grant of certificate in respect of certain debts.—(1) Where, during the hearing of any application made under section 4, any creditor refuses to agree to an amicable settlement, and if no order has been passed under clause (b) of sub-section (1) of section 14, in respect of the debts due to such creditor, the Board shall, if it is of opinion that the debtor has made such creditor a fair offer which the creditor ought reasonably to accept, grant the debtor a certificate in such form as may be prescribed, in respect of the debts owned by him to such creditor.

The Board in coming to a decision whether the offer made is fair or not, may take into consideration—

(i) the fall or rise in the value of land and its produce in the locality;

(ii) the amount of consideration actually received;

(iii) the reasonableness of the rates of interest;

(iv) the onerous conditions, if any, subject to which the loan was granted;

(v) whether at any time, the creditor or the debtor was offered settlement of the debt in full or part and if so what the terms were; and

(vi) any other particulars which the Board thinks it desirable to take into account.

(2) *Power of Court to disallow cost or interest.*—Where any creditor sues in a Civil Court for the recovery of a debt in respect of which a certificate has been granted under sub-section (1), the Court shall, notwithstanding the provisions of any law for the time being in force, not allow the plaintiff any cost in such suit, or any interest on the debt after the date of such certificate in excess of simple interest at 6 per cent. per annum on the principal amount due on the date of such certificate.

(3) *Decrees in suits after registration of agreement not to be executed.*—Where after the registration of an agreement under sub-section (4) of section 14, any unsecured creditor sues for the recovery of a debt incurred before the date of such agreement and in respect of which a certificate has been granted under sub-section (1) or any creditor sues for the recovery of a debt

incurred after the date of the application under section 4, any decree passed in such suit shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, not be executed as against the assets, if any, set apart in the agreement for the satisfaction of the agreed debts until all amounts recorded as payable under such agreement have been paid.

25. Bar of Civil Suits.—No Civil Court shall entertain—

(a) any suit in respect of—

(1) any matter pending before a Board in proceedings in which a notice has been ordered to be issued under sub-section (1) of section 9, or

(2) the validity of any procedure or the legality of any agreement or award made under this Act, or

(3) the recovery of any debt payable under an agreement or award registered under sub-section (4) of section 14, from any person who, as a debtor, was party to such agreement or award; or

(4) the recovery of any debt which has been deemed to have been duly discharged under sub-section (2) of section 9 except a debt which is revived under sub-section (3) or sub-section (4) of that section, or

(b) any application to execute a decree the execution of which is suspended under sub-section (3) of section 24.

26. Avoidance of certain transfers of Debtors' property.—(1) Every transfer of property made, with intent to defeat or delay the creditors of the debtor or to give a preference to one creditor over the other creditors, within *six months next*¹ before the date of an application under section 4 or after such an application has been made and until the agreement or award registered in pursuance of such application has been fully carried out, shall be voidable by order of the Board on application by the creditors so defeated or delayed or affected by such preference.

(2) An appeal against an order of the Board under this section shall lie to the District Judge having jurisdiction in the area for which the Board is constituted;

Provided that where the District Judge is a member of the Board which passed the order and the value of the property transferred, at the date of the transfer, exceeds rupees two thousand the appeal shall lie to the Chief Court of Sind.

27. Alienation made with sanction of Board not to be considered as a fraudulent preference.—Any alienation of land for a fair price made with the sanction of the Board in pursuance of or to carry out the agreement or award mentioned in section 14, shall not be considered as a fraudulent preference under the Presidency Towns Insolvency Act, 1909, and the Provincial Insolvency Act, 1920, nor shall such alienation be voidable under section 53 of the Transfer of Property Act, 1882.

28. Bar of appeal or revision.—Except as expressly provided in this Act, no appeal or application for revision shall lie against any order passed by a Board.

29. Power of Board to review its order.—A Board may, on application from any person interested made within ninety days of the passing of an order, or on its own motion at any time, review any order passed by it and pass such order in reference to it as it thinks fit;

Provided that no order shall be varied or reversed unless notice has been given to the persons interested to appear and be heard in support of such order.

¹. Corrected by Notification No. S. 23/11/L, dated 6th June, 1941.

30. Appearance of parties before Board—In any proceedings before a Board any party may appear in person or, with the permission of the Board, by an agent authorised in writing who shall not be a legal practitioner :

Provided that the Board may grant permission to appear by a legal practitioner if the amount involved in the application made under section 4 exceeds two thousand rupees.

31. Stay of pending suits or other proceedings.—When an application has been made to a Board under section 4 and notice has been ordered to issue thereon under sub-section (1) of section 9 any suit or other proceedings then pending before a Civil Court in respect of any debt for the settlement of which application has been made shall not be proceeded with until the Board has dismissed the application.

32. Report by Board regarding sums due to Government.—Where in the course of an inquiry into an application made under section 4, a Board finds that there is any sum owing to Government on account of loans advanced under the Agriculturists Loans Act, 1884, or the Land Improvement Loans Act, 1883, or otherwise, or that any sum is due to a Co-operative Society the Board shall report this fact to the Collector or the Registrar of Co-operative Societies, as the case may be.

33. Computation of period of limitation for suits and proceedings—(1) In calculating the period of limitation for any suit filed in, or proceedings before, a Civil Court for the recovery of a debt which was the subject of any proceedings under this Act, the time during which such proceedings were pending as well as the time taken for the obtaining of certified copies of the order of the Board shall be excluded.

(2) The period during which proceedings under this Act have been pending including the actual period fixed in the agreement or award for payment of all the debts shall, in all suits filed or proceedings taken in Civil Courts to recover debts, be excluded from computation under section 48 of the Code of Civil Procedure, 1908, or under the Indian Limitation Act, 1908.

34. Conciliation Officers and Advisers deemed to be 'public servants'.—Conciliation Officers and Advisers shall be deemed to be public servants within the meaning of the Indian Penal Code.

35. Proceedings deemed to be judicial proceedings.—All proceedings under this Act shall be deemed to be judicial proceedings within the meaning of section 228 of the Indian Penal Code.

36. Power to make Rules—(1) The Provincial Government may make rules to carry out all or any of the purposes of this Act and not inconsistent therewith.

(2) In particular and without prejudice to the generality of the foregoing power, they shall have power to make rules—

(a) with reference to all matters expressly required or allowed by this Act to be prescribed ;

(b) regulating the procedure before a Board ;

(c) prescribing the charges to be made by a Board for anything done under this Act and the persons by whom and the manner in which such charges shall be paid ;

(d) prescribing the records to be kept and the returns to be made by a Board ;

(e) prescribing the allowances, if any, to be paid to the Conciliation Officers and Advisers ;

(f) regulating the power of a Board to summon parties and witnesses and the production of documents under section 12 and the grant of expenses to witnesses; and

(g) prescribing the place at which and the manner in which an agreement or award shall be registered under sub-section (4) of section 14.

(3) All rules made under this Act shall be subject to the condition of the rules being made after previous publication.

(4) In making any rule the Provincial Government may direct that a breach thereof shall be punishable with fine which may extend to fifty rupees, and in case of a continuing breach with fine which may extend to ten rupees for every day during which the breach continues after the first breach.

(5) Rules made under this Act shall be laid upon the table of the Sind Legislative Assembly at the session of the Assembly next following and shall be liable to be modified or rescinded by a resolution of the said Assembly and the modification or rescission so made shall after publication in the *Official Gazette* be deemed to have come into force.

The Agriculturists' Loans (Sind Amendment) Act, 1941.

Received the assent of the Governor on the 19th July 1941 and is published in the *Sind Government Gazette*, Part IV, dated the 31st July 1941.

Sind Act No. X of 1941.

An Act to amend the Agriculturists' Loans Act, 1884, in its application to the Province of Sind.

WHEREAS it is expedient to amend the Agriculturists' Loans Act, 1884, in its application to the Province of Sind, for the purposes herein-after appearing; It is hereby enacted as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Agriculturists' Loans (Sind Amendment) Act, 1941.

(2) It shall extend to the whole of the Province of Sind.

(3) It shall come into force at once.

Notes.

Object.—“In order to see that pure seeds are utilized by zamindars, it is necessary that short-term credit sales must be allowed, as some of the zamindars are unable to make cash payments therefor till they sell a part of their produce. In the absence of this facility, such zamindars utilize any seeds—whether pure or mixed—that they obtain from Bantias or factory owners on loan. But as there is no provision of law empowering Government to recover such dues, as an arrear of land revenue, there exists risk of non-recovery, if short-term credit sales are allowed. The Agriculturists' Loans Act, 1884, is accordingly amended to empower Government to make rules for supplying seed on credit to zamindars. If payment is not made, under section 5 it can be recovered as arrears of land revenue. This amendment will make it possible for Government to embark on a policy of short-term credit sales of pure seed.” [Vide Statement of Objects and Reasons, printed at p. 306 of Part IV of the *Sind Government Gazette*, 1941.]

2. *Amendment of section 4 of Act XII. of 1884.*—In subsection (1) of section 4 of the Agriculturists' Loans Act, 1884 (hereinafter called the said Act), the following words shall be added at the end, namely:—

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LOCAL BOARDS AND MUNICIPAL BOROUGHES (SIND
AMENDMENT) ACT, 1941.

"and as to sale of seed on credit to owners and occupiers of arable land."

3. *Amendment of section 5 of Act XII of 1884.*—In section 5 of the said Act, after the word "loan" where it occurs for the first time the words "or sale of seed on credit" and where it occurs for the second and third times the words "or sale" shall be inserted.

The Bombay Village Sanitation, District Municipal, Local Boards and Municipal Boroughs (Sind Amendment) Act, 1941.

Received the assent of the Governor on the 21st July 1941 and is published in the *Sind Government Gazette*, Part IV, dated the 31st July 1941.

Sind Act No. XI of 1941.

An Act further to amend the Bombay Village Sanitation Act, 1889, the Bombay District Municipal Act, 1901, the Bombay Local Boards Act, 1923 and the Bombay Municipal Boroughs Act 1925, in their application to the Province of Sind.

WHEREAS it is expedient further to amend the Bombay Village Sanitation Act, 1889, the Bombay District Municipal Act, 1901, the Bombay Local Boards Act, 1923, and the Bombay Municipal Boroughs Act, 1925, in their application to the Province of Sind, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. *Short title*—This Act may be called the Bombay Village Sanitation, District Municipal, Local Boards and Municipal Boroughs (Sind Amendment) Act, 1941.

Notes.

Object—"Under the existing law contributions by local bodies to war funds are not permissible. Some of the local bodies have, however, made and some others are willing to make substantial contribution to such funds. The Bill is intended to validate the contributions already made and to invest local bodies with the necessary power of making such contributions in the future." [Vide Statement of Objects and Reasons, printed at p. 170 of Part IV of the *Sind Government Gazette*, 1941.]

2. *Amendment of Bom. I of 1889.*—In the Bombay Village Sanitation Act, 1889,—

in section 30E, in the first proviso, the following words shall be inserted at the end, namely:—

"or, with the like sanction, for making contributions to any war fund organised within or beyond the said limits."

3. *Amendment of Bom. III of 1901.*—In the Bombay District Municipal Act, 1901,—

(1) in section 52, in the first proviso, after clause (b), the following clause shall be inserted, namely:—

"(bb) to contribute to any war fund organised outside the limits of the municipal district; or";

(2) in section 56, after clause (k), the following clause shall be inserted, namely:—

"(kk) contributions to any war fund;".

4. *Amendment of Bom. VI of 1923.*—In section 56 of the Bombay Local Boards Act, 1923, after clause (mm), the following clause shall be inserted, namely:—

"(mmm) contributions to any war fund organised whether within or without the district;"

5. *Amendment of Bom. XVIII of 1925.*—In the Bombay Municipal Boroughs Act, 1925,—

(1) in section 66, in the first proviso, after clause (b), the following clause shall be inserted, namely:—

"(bb) to contribute to any war fund organised outside the limits of the municipal borough; or";

(2) in section 71, after clause (g), the following clause shall be inserted, namely:—

"(qq) contributions to any war fund;"

6. *Amendments to have retrospective effect.*—The amendments made by this Act shall be deemed to have come into force with effect from the 5th September 1939.

The Bombay (District) Tobacco (Sind Amendment) Act, 1941.

Received the assent of the Governor on the 21st July 1941 and is published in the *Sind Government Gazette*, Part IV, dated the 31st July 1941.

Sind Act No. XII of 1941.

An Act further to amend the Bombay (District) Tobacco Act, 1933, in its application to the Province of Sind.

WHEREAS it is expedient further to amend the Bombay (District) Tobacco Act, 1933, in its application to the Province of Sind, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. *Short title*—This Act may be called the Bombay (District) Tobacco (Sind Amendment) Act, 1941.

Notes.

Object.—"Applications for the renewal of licences under the Bombay (District) Tobacco Act, 1933, are to be made at least one month before the expiry of the licence. Experience has, however, shown that the licensees rarely do this and that licences are frequently not taken out until months after the expiry of the old licences. This default on the part of the licensees cannot be penalised as the law stands at present. It is, therefore, proposed to levy additional fees from the licensees in the event of their failure to apply for renewal of their licences in accordance with the rules." [Vide Statement of Objects and Reasons, printed at p. 216 of Part IV of the *Sind Government Gazette*, 1941.]

2. *Amendment of section 7 of Bom. II of 1933.*—In section 7 of the Bombay (District) Tobacco Act, 1933 (hereinafter called the said Act),—

(1) for sub-section (1) the following shall be substituted, namely:—

"(1) Every licence for the sale of tobacco whether wholesale, retail or by a hawker or for carrying on business as a broker shall be granted by the Collector in the manner prescribed by the Provincial Government.

(2) A licence granted under sub-section (1) shall, subject to the provisions of section 8, be effective for a period of twelve months, or such lesser period as may be prescribed, from the date of its grant or last renewal but may be renewed on application made to the Collector or such other authority as may be prescribed.

(3) Every such licence shall be granted or renewed on payment of fees specified in Part I of the Schedule hereto annexed;

Provided that when the application for renewal is made after the date on which the licence expired the applicant shall pay an additional fee specified in Part II of the said Schedule."

THE BOMBAY PRIMARY EDUCATION (SIND AMENDMENT) ACT, 1941.

(2) sub-section (2) shall be renumbered as subsection (4).

3. *Amendment of the Schedule to Bom. II of 1933.*—In the schedule to the said Act—

(1) for the heading "Licence Fees" the following heading shall be substituted, namely:—

"Part I.

Fees for the grant of a licence and the renewal of a licence before the date on which it is due to expire."

(2) after entry 4 the following shall be inserted, namely:—

"Part II.

Additional fees for renewal of a licence after the date on which it expired,

(1) When the application for renewal is made within one month from the date on which the licence expired ... four annas.

(2) When the application for renewal is made after one month but within three months from the date on which the licence expired. ... eight annas.

(3) When the application for renewal is made after three months but within six months from the date on which the licence expired ... twelve annas.

(4) When the application for renewal is made after six months from the date on which the licence expired ... an amount equal to the fee prescribed for the grant of the licence."

The Bombay Primary Education (Sind Amendment) Act, 1941.

Received the assent of the Governor on the 21st July 1941 and is published in the *Sind Government Gazette*, Part IV, dated the 31st July 1941.

Sind Act No. XIII of 1941.

An Act further to amend the Bombay Primary Education Act, 1923, in its application to the Province of Sind.

WHEREAS it is expedient further to amend the Bombay Primary Education Act, 1923, in its application to the Province of Sind, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Bombay Primary Education (Sind Amendment) Act, 1941.

Notes.

Object.—“(1) Under clause (d) of sub-section (2) of section 2A of the Bombay Primary Education Act, 1923, no Chairman of the School Board or the President of the Local Authority can be a member of the Provincial Board of Primary Education unless he has held such office for not less than 3 years. The provision is evidently defective. The local authorities have primary interest in education and it would therefore be fair and proper if the Act is amended so as to enable the standing Presidents and Chairman of the School Boards to have a chance of being elected to the Board. Clause (d) of sub-section (2) of section 2A of the Act is being amended accordingly.

(2) Under section 9A of the Bombay Primary Education Act, 1923, Supervisors are the servants of the Provincial Government while the Administrative Officers appointed under section 27A of the Bombay Primary Education Act are servants of the local authority. It is anomalous that in cases where Administrative Officers are appointed under section 27A of the Bombay Primary Education Act, the Supervisors who work under the Administrative Officers should continue as Government servants. It is therefore proposed to remove the anomaly and make such Supervisors servants of the local authority. It is also proposed to empower Government to appoint officers to inspect approved schools under such local authority. [Vide Statement of Objects and Reasons, printed at page 309 of Part IV of the *Sind Government Gazette*, 1941.]

2. *Amendment of section 2A of Bombay IV of 1923.*—In clause (d) of sub-section (2) of section 2A of the Bombay Primary Education Act, 1923, hereinafter called the said Act, the words "who has held such office for not less than three years" shall be deleted.

3. *Amendment of section 27A of Bombay IV of 1923.*—In section 27A of the said Act—

(i) in sub-section (1)—

(a) after the words "power to appoint an Administrative Officer" the words "and supervisors under an Administrative Officer" shall be inserted;

(b) for the words from "The Officer so appointed" to "the local authority concerned" the words "The Officers so appointed shall be the servants of the local authority concerned" shall be substituted;

(ii) in sub-section (3) after the words "such Administrative Officer" the words "and supervisors" shall be inserted;

(iii) for sub-section (4) the following shall be substituted; namely:—

"(4) Such Administrative Officers and Supervisors shall, subject to the general or special orders of the Provincial Government in the case of Administrative Officers, exercise all the powers and perform all the duties which may be exercised and performed by the Administrative Officers appointed under section 9 and the supervisors appointed under section 9A";

(iv) after sub-section (4) the following new sub-section shall be inserted, namely:—

"(5) Notwithstanding delegation of power under sub-section (1), the Provincial Government may appoint officers to inspect approved schools under such local authority. The Officers so appointed shall be servants of the Provincial Government and their qualifications, pay, conditions of service, duties and powers shall be such as may be prescribed."

The District Local Board Elections (Validation) Act, 1941.

Received the assent of the Governor on the 21st July 1941 and is published in the *Sind Government Gazette*, Part IV, dated the 31st July 1941.

Sind Act No. XIV of 1941.

An Act to validate the elections for the purpose of filling the places of members of certain district local boards in the Province of Sind whose terms of office expired on the 31st day of March 1941.

WHEREAS the validity of the elections for the purpose of filling the places of members of the district local boards for the districts of Hyderabad,

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AND ALLOWANCES (AMENDMENT) ACT, 1941.

Sukkur, Larkana, Upper Sind Frontier, Nawabshah, Dadu and Thar Parkar whose terms of office expired on the 31st day of March 1941, has been brought into question or doubted ;

AND WHEREAS it is expedient to validate the said elections ; It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the District Local Board Elections (Validation) Act, 1941.

Notes.

Object.—“The proviso under section 17 of the Bombay Local Boards Act, 1923, requires that ‘when the elections are for the purpose of filling the places of members whose terms of office have expired, such elections shall be not sooner than two months and not later than one month before the commencement of the term of office of members of the board to which such elections are to be made’. As the terms of all district local boards were extended under section 28 of the Act for the permissible maximum period and actually expired on 31st March 1941, the elections of all boards were to be held not later than 28th February 1941. This statutory requirement not having been observed in the case of any board except Karachi the dates of poll fixed in all cases offend against the provisions of section 17 of the Act. As the legality of the elections has since been questioned on this account it has become necessary to bring in the proposed validating legislation.” [Vide Statement of Objects and Reasons, printed at page 312 of Part IV of the *Sind Government Gazette*, 1941.]

2. *Validation of elections of certain local boards.*—Notwithstanding the error or irregularity in so far as the terms of the proviso to section 17 of the Bombay Local Boards Act, 1923, were not duly complied with and notwithstanding any decree or order of any court to the contrary, the elections held for the purpose of filling the places of members of the district local boards for the districts of Hyderabad, Sukkur, Larkana, Upper Sind Frontier, Nawabshah, Dadu and Thar Parkar whose terms of office expired on the 31st day of March 1941, shall be deemed to be valid and have effect as if they had been held in accordance with the terms of the said proviso.

**The Sind Legislative Assembly Members' Salaries and Allowances
(Amendment) Act, 1941.**

Received the assent of the Governor on the 22nd July 1941 and is published in the *Sind Government Gazette*, Part IV, dated the 31st July 1941

Sind Act No. XV of 1941.

An Act to amend the Sind Legislative Assembly Members' Salaries and Allowances Act, 1938.

WHEREAS it is expedient to amend the Sind Legislative Assembly Members' Salaries and Allowances Act, 1938, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Sind Legislative Assembly Members' Salaries and Allowances (Amendment) Act, 1941.

2. *Commencement.*—It shall be deemed to have come into force from the 26th February 1941

3. *Amendment of section 3 of Sind Act V of 1938.*—In section 3 of the Sind Legislative Assembly Members' Salaries and Allowances Act, 1938—

(i) in clause (a) for the words "seventy-five" the words "one hundred and twenty-five" shall be substituted;

(ii) after clause (b) the following clause shall be inserted, namely:—

"(bb) where the member does not ordinarily reside in Karachi or at the place where a session of the Assembly is held, a subsistence allowance at the rate of seven rupees and eight annas for each day of attendance at such session or meeting and where the session or meeting is adjourned to a specified date, for each day of residence at Karachi or at the place where such session or meeting is held for the purpose of attending the adjourned session or meeting;" and

(iii) in clause (d) (i) for the words "second class" the words "first class" shall be substituted.

The Bombay District Police (Sind Amendment) Act, 1941.

Received the assent of the Governor-General on the 18th August 1941 and is published in the *Sind Government Gazette*, Part IV, dated the 4th September 1941.

Sind Act No. XVI of 1941.

An Act further to amend the Bombay District Police Act, 1890, in its application to the Province of Sind.

WHEREAS it is expedient further to amend the Bombay District Police Act, 1890, in its application to the Province of Sind, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Bombay District Police (Sind Amendment) Act, 1941.

2. *Amendment of section 80 of Bombay IV of 1890.*—In section 80 of the Bombay District Police Act, 1890, to sub-section (3) the following proviso shall be added, namely:—

"Provided that nothing herein contained shall apply to any prosecution or suit instituted by order of, or under authority from, the Provincial Government or some officer empowered by the Provincial Government in this behalf or to any complaint made by a Court under Chapter XXXV of the Code of Criminal Procedure, 1898."

The Cotton Ginning and Pressing Factories (Sind Amendment) Act, 1941.

Received the assent of the Governor-General on the 22nd August 1941 and is published in the *Sind Government Gazette*, Part IV, dated the 4th September 1941.

Sind Act No. XVII of 1941.

An Act further to amend the Cotton Ginning and pressing Factories Act, 1925, in its application to the Province of Sind.

WHEREAS it is expedient further to amend the Cotton Ginning and Pressing Factories Act, 1925, in its application to the Province of Sind, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Cotton Ginning and Pressing Factories (Sind Amendment) Act, 1941.

2. *Amendment of section 3A of Act XII of 1925.*—In sub-sections (2) and (3) of section 3A of the Cotton Ginning and Pressing Factories Act, 1925, for the words "five thousand rupees" the words "five hundred rupees" shall be substituted.

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Bengal Acts

The Bengal Tenancy (Amendment) Act, 1940.

The following Act of the Bengal Legislature, has been assented to in His Majesty's name by the Governor [Vide Notification No. 17L., dated the 7th January 1941 of the Legislative Department, published in the *Calcutta Gazette*, Part III, dated the 9th January 1941.]

Bengal Act No. XVIII of 1940.

[*Passed by the Bengal Legislature.*]

[Assent of the Governor was first published in the *Calcutta Gazette* of the 9th January 1941.]

An Act further to amend the Bengal Tenancy Act, 1885, and the Bengal Tenancy (Second Amendment) Act, 1939.

WHEREAS it is expedient further to amend the Bengal Tenancy Act, 1885, and the Bengal Tenancy (Second Amendment) Act, 1939, for the purposes and in the manner hereinafter appearing ;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Bengal Tenancy (Amendment) Act, 1940.

2. *Amendment of section 26C of Act VIII of 1885.*—In sub-section (5) of section 26C of the Bengal Tenancy Act, 1885 (hereinafter referred to as the said Act), for the words "shall serve the notices provided in this section by registered post" the words "shall, in the prescribed manner, serve the notices for which this section provides" shall be substituted.

3. *Amendment of section 26G.*—In section 26G of the said Act—

(1) for sub-section (1a) the following sub-section shall be substituted, namely:—

"(1a) Notwithstanding anything contained in this Act or in any other law for the time being in force or in any contract, every mortgage (including a mortgage by conditional sale) entered into by an occupancy-*raiyat* in respect of his holding or of a portion or share thereof in which possession of land is delivered to the mortgagee—

(a) which was so entered into before the commencement of the Bengal Tenancy (Amendment) Act, 1928, and was subsisting on or after the first day of August, 1937, or

(b) which, being other than a usufructuary mortgage having under sub-section (1) no force or effect, was so entered into after the commencement of the Bengal Tenancy (Amendment) Act, 1928, and before the commencement of the Bengal Tenancy (Amendment) Act, 1940, and was subsisting on or after the commencement of the Bengal Tenancy (Amendment) Act, 1940, shall be deemed to have taken effect as a complete usufructuary mortgage for the period mentioned in the instrument or for fifteen years, whichever is less".

(2) after sub-section (1a) the following sub-section shall be inserted, namely:—

"(1b) Notwithstanding anything contained elsewhere in this Act or in any other law or in any contract, no mortgage (other than a complete

2 THE BENGAL TENANCY (AMENDMENT) ACT, 1940.

usufructuary mortgage) entered into by an occupancy-*raiyat* in respect of his holding or of a portion or share thereof after the commencement of the Bengal Tenancy (Amendment) Act, 1940, in which possession of land is delivered to the mortgagee, shall have any force or effect.”;

(3) in sub-section (4)—

(a) in clause (b) after the words “complete usufructuary mortgage” the word “or” shall be inserted;

(b) after clause (b) the following clause shall be inserted, namely :—

“(c) a mortgage of such holding, portion or share [other than a complete usufructuary mortgage or a usufructuary mortgage referred to in clause (b)] in which possession of land is delivered to the mortgagee,” and

(d) for the proviso the following shall be substituted, namely :—

“Provided that—

(i) a document referred to in clauses (a) or (b) which was executed before the commencement of the Bengal Tenancy (Amendment) Act, 1928, or

(ii) a document referred to in clause (c) which was executed before the commencement of the Bengal Tenancy (Amendment) Act, 1940, may be so received in evidence or so acted upon as a complete usufructuary mortgage for the period mentioned therein or for fifteen years, whichever is less.”;

(4) in sub-section (5)—

(a) for the words beginning with “to possession of” and ending with “restored thereto” the following words shall be substituted, namely :—

“to possession of the mortgaged property, and he may, if he is not forthwith given possession, apply to the Court to be restored to possession thereof and to be awarded such compensation as may appear to the Court to be equitable in respect of the period during which the mortgagee retained possession after the date on which the mortgagor became entitled to be restored to possession”, and

(b) in the proviso, for the word “holding” the word “property” shall be substituted;

(5) in sub-section (6)—

(a) for the words “or Revenue-officer to whom” the words “to which” shall be substituted, and

(b) for the words beginning with “in respect of the period” and ending with “decree of a Civil Court” the words “and may pass an order restoring possession of the mortgaged property to the mortgagor” shall be substituted; and

(6) after sub-section (6), the following sub-sections shall be inserted, namely :—

“(7) Any order made by a Court under sub-section (6) shall have the effect of a decree of a Civil Court and shall be subject to the provisions of the Code of Civil Procedure, 1908, in respect of appeal, revision or review:

Provided that, notwithstanding anything contained in this or any other Act for the time being in force, a memorandum of appeal or application for review or revision under this sub-section shall be chargeable with a fee of twelve annas only.

(8) Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force or in any contract, in respect of a mortgage by conditional sale subsisting on the date of the com-

mencement of the Bengal Tenancy (Amendment) Act, 1940, in which possession of land has been delivered to the mortgagee—

(a) the mortgagor may at any time institute a suit for a declaration that the original principal, together with all interest due thereon, has been extinguished by the profits arising from the land in respect of which, and subsequent to the date on which, possession was so delivered, and for recovery of possession of the mortgaged property, and

(b) the mortgagee may, at any time after the expiry of fifteen years from the date of the instrument creating the mortgage, institute a suit for a declaration that the original principal, together with all interest due thereon, has not been extinguished by the profits arising from the land in respect of which, and subsequent to the date on which, possession was so delivered.

(9) In any suit instituted under sub-section (8) the Court may, if it thinks fit, re-open any transaction relating to the mortgage for the purpose of ascertaining whether the mortgagee in possession has derived from the mortgaged property profits sufficient to extinguish the original principal, together with simple interest thereon calculated at the rate of eight *per centum per annum*.

(10) In any suit instituted under sub-section (8), if the Court is satisfied that the original principal, together with all interest due thereon, has been extinguished by the profits arising from the mortgaged property or by any other means, it shall make a declaration to this effect and shall pass a decree restoring possession of the mortgaged property to the mortgagor.

(11) In any suit instituted under sub-section (8), if the Court is satisfied that the original principal, together with all interest due thereon, has not been extinguished by the profits arising from the mortgaged property or by any other means, it shall make a declaration to this effect, and may fix any sum, not exceeding the original principal, on payment of which the mortgagor shall be entitled to redeem the mortgaged property and may pass a decree accordingly, allowing the mortgagor a reasonable period within which to make such payment; and in any such decree the Court may further direct that, if such payment is not made within the period so fixed, the mortgagee shall retain possession of the mortgaged property for such period as may be specified in the decree and that, after the expiry of that period, the original principal, together with all interest due thereon, shall be deemed to be extinguished and possession of the mortgaged property shall be restored to the mortgagor.

(12) Subject to the provisions of sub-section (13), the decision of the Court under sub-section (10) or sub-section (11) shall be final.

(13) The provisions of the Code of Civil Procedure, 1908, relating to appeals shall apply to all decrees or orders made under sub-sections (10) and (11), but notwithstanding anything contained in the Indian Limitation Act, 1908, or in this Act, the period of limitation for an appeal to the Court of a District Judge against any such decree or order shall be ninety days from the date of the decree or order appealed from."

4. *Amendment of section 52.*—In sub-section (1B) of section 52 of the said Act after the words "on account of increase of area" the words "unless an equivalent reduction of rent on account of reduction of area has been granted in respect of one or more of the contiguous tenures or holdings" shall be added.

5. *Insertion of new section 168A.*—After section 168 of the said Act the following section shall be inserted, namely :—

4 THE BENGAL LEGISLATURE (REMOVAL OF DISQUALIFICATIONS AMENDMENT) ACT, 1940.

"158A. *Attachment and sale of tenure or holding for arrears of rent due thereon, and liability of purchasers thereof.*—(1) Notwithstanding anything contained elsewhere in this Act, or in any other law, or in any contract—

(a) a decree for arrears of rent due in respect of a tenure or holding, whether having the effect of a rent decree or money decree, or a certificate for such arrears signed under the Bengal Public Demands Recovery Act, 1913, shall not be executed by the attachment and sale of any movable or immovable property other than the entire tenure or holding to which the decree or certificate relates:

Provided that the provisions of this clause shall not apply if, in any manner other than by surrender of the tenure or holding, the term of the tenancy expires before an application is made for the execution of such a decree or certificate:

(b) the purchaser at a sale referred to in clause (a) shall be liable to pay to the decree-holder or certificate-holder the deficiency, if any, between the purchase price and the amount due under the decree or certificate together with the costs incurred in bringing the tenure or holding to sale and any rent which may have become payable to the decree-holder between the date of the institution of the suit and the date of the confirmation of the sale.

(2) In any proceeding pending on the date of the commencement of the Bengal Tenancy (Amendment) Act, 1940, in execution of a decree or certificate to which the provisions of sub-section (1) apply, if there has been attached any immovable property of the judgment-debtor other than the entire tenure or holding to which the decree or certificate relates, and if the property so attached has not been sold, the Court or Certificate-officer as the case may be shall, on the application of the judgment-debtor, direct that, on payment by the judgment-debtor of the costs of the attachment, the property so attached shall be released.

(3) A sale referred to in clause (a) of sub-section (1) shall not be confirmed until the purchaser has deposited with the Court or Certificate-officer, as the case may be, the sum referred to in clause (b) of that sub-section."

6. *Amendment of section 3 of Bengal Act XIII of 1939.*—In clause (b) of sub-section (1) of section 3 of the Bengal Tenancy (Second Amendment) Act, 1939, for the words and figure "if a decree has been passed before the commencement of this Act in a suit under the said clause instituted on or after the twenty-seventh day of August, 1937" the words and figure "if a decree has been passed on or after the twenty-seventh day of August, 1937, and before the commencement of this Act in a suit under the said clause" shall be substituted.

The Bengal Legislature (Removal of Disqualifications Amendment) Act, 1940.

The following Act of the Bengal Legislature, has been assented to in His Majesty's name by the Governor [Vide Notification No. 43L., dated the 13th January 1941 of the Legislative Department, published in the *Calcutta Gazette*, Part III, dated the 16th January 1941.]

Bengal Act XIX of 1940.

[Passed by the Bengal Legislature.]

[The assent of the Governor was first published in the *Calcutta Gazette* of the 16th January 1941.]

An Act temporarily to amend the Bengal Legislature (Removal of Disqualifications) Act, 1937.

WHEREAS it is expedient temporarily to amend the Bengal Legislature (Removal of Disqualifications) Act, 1937 for the purpose and in the manner hereinafter appearing;

It is hereby enacted as follows :—

1. *Short title and duration.*—(1) This Act may be called the Bengal Legislature (Removal of Disqualifications Amendment) Act, 1940.

(2) It shall be in force during the continuance of the present war and for a period of twelve months thereafter.

Notes.

Object.—"By virtue of the provision of clause (b) of section 2 of the Bengal Legislature (Removal of Disqualifications) Act, 1937 a person is not debarred from becoming or being a member of either Chamber of the Bengal Legislature by reason only of the fact that as a part-time member of any of His Majesty's Naval, Military or Air Forces, he holds an office of profit under the Crown in India. When however such a member of the legislature holds such an office as a full-time member of any of such forces, he is disqualified for being a member and his seat in the legislature falls vacant automatically. The object of this amending Bill is to enable a person to render full-time service in any of the forces referred to without incurring any disqualification under section 69 (1) (a) of the Government of India Act, 1935, for being chosen as or for being a member of either Chamber of the Bengal Legislature until the termination of the present state of war. It excludes from its operation persons who have been continuously in whole-time service of the Crown in India since the 2nd September 1939, i. e., the date before the outbreak of the present war. [Vide Statement of Objects and Reasons, printed at page 334 of Part IV of the Calcutta Gazette, 1940.]

2. *Temporary amendment of Bengal Act III of 1937.*—While this Act is in force, section 2 of the Bengal Legislature (Removal of Disqualifications) Act, 1937 shall have effect as if after clause (c) of the said section the following clause had been added, namely :—

(d) an office in any of His Majesty's naval, military or air forces in India, or an office under the Central Government, connected with the equipment or administration of any of those forces or otherwise connected with the defence of India, provided that this clause shall not apply in the case of any person who has, since the 2nd day of September, 1939, been continuously in whole-time service of the Crown in India."

The Bengal Local Authorities Census Expenses Contribution Act, 1940.

The following Act, of the Bengal Legislature, has been assented to in His Majesty's name by the Governor. [Vide Notification No. 44L, dated the 13th January 1941 of the Legislative Department, published in the Calcutta Gazette, Part III, dated the 16th January 1941.]

Bengal Act XX of 1940.

[Passed by the Bengal Legislature.]

[The assent of the Governor was first published in the Calcutta Gazette of the 16th January 1941.]

An Act to provide for the contribution by certain local authorities to census expenses.

WHEREAS it is expedient to make provision for the contribution by certain local authorities of a portion of the expenses incurred or to be incurred in

6 THE BENGAL LOCAL AUTHORITIES CENSUS EXPENSES CONTRIBUTION ACT, 1940.

connection with the census of British India to be taken during the year 1941.

It is hereby enacted as follows :—

1. *Short title and extent.*—(1) This Act may be called the Bengal Local Authorities Census Expenses Contribution Act, 1940.

(2) It extends to the whole of Bengal.

Notes.

Object.—“ At the request of the Government of India, the Government of Bengal agreed to co-operate with that Government in census work subject to the observance of the same principles as in the 1931 census.

In the 1931 census, the Government of Bengal, by notifications under section 14 of the Indian Census Act, 1939, (corresponding to section 15 of the Indian Census Act, 1939), directed the Calcutta Corporation and other municipalities to bear certain expenses incurred in connection with that census. The assurance given in regard to the ensuing census means that this assistance should be continued.

2. In view of the altered constitutional position, section 15 of the Indian Census Act, 1939, does not authorise the Provincial Government to issue notifications, as they had done in the past under similar provisions of the previous census Acts, directing municipalities, etc., in the Province, except municipalities in Central areas and cantonments, to pay contributions, and, consequently, special provincial legislation is necessary for the purpose.

3. The Bill has been prepared accordingly to provide for contributions by certain local authorities of a portion of the expenses incurred or to be incurred in connection with the forthcoming census.

4. Another object of the Bill is to provide for powers to enable Union Boards and municipalities having a population of less than 5,000 persons to spend out of the union or municipal funds, as the case may be, any sum not exceeding ten rupees to meet petty expenses that may be incurred in connection with the taking of the census ; and at the same time to permit any District Board to earmark any portion of the grant which it makes to any Union Board within its area in case the Union Board's own funds are found insufficient for the purpose. The expenditure will be voluntary and will be mostly concerned with the relief of enumerators who are an unpaid agency from various out-of-pocket expenses, such as ink and paper and perhaps in some cases boat-hire. No contribution will be exacted from these bodies for the relief of the census budget of the Central Government. [Vide Statement of Objects and Reasons, printed at page 333 of Part III of the Calcutta Gazette, 1941].”

2. *Definitions.*—In this Act—

(a) “census” means the census of British India to be taken during the year 1941;

(b) “prescribed” means prescribed by rules made under this Act.

3. *Contributions by municipalities having a population of 5,000 persons or over.*—Notwithstanding anything contained in any enactment or rule in regard to municipal funds, the Provincial Government may direct that such portion as may be prescribed of the expenses (incurred whether before or after the commencement of this Act) connected with the taking of the census in any municipal area having a population of 5,000 persons or over shall be charged to the municipal fund constituted for, and on behalf of, that area; and the sums to be so charged shall be computed and paid in the prescribed manner:

Provided that the portion of such expenses which may be charged to the municipal fund of the Corporation of Calcutta shall not exceed one-half.

4. *Contributions by Union Boards and by municipalities having a population of less than 5,000 persons.*—Notwithstanding anything contained in any enactment or rule in regard to municipal or union funds, the Municipal Commissioners of any municipality having a population of less than 5,000 persons, or any Union Board may spend any sum not exceeding ten rupees out of the municipal fund or the union fund, as the case may be, to meet the expenses incurred in connection with the taking of the census in the area for and on behalf of which the fund is constituted.

5. *Contributions by District Boards.*—Notwithstanding anything contained in the foregoing sections or in any enactment or rule in regard to local or union funds, any District Board may, if it thinks fit, direct that any portion of the grant which it makes to any Union Board within its area shall be spent in meeting any expenses incurred in connection with the taking of the census within the union.

6. *Power to make rules.*—(1) The Provincial Government may make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the portion of the expenses connected with the taking of the census which may be charged under this Act to municipal funds;

(b) the manner in which sums charged under this Act shall be computed and paid;

(c) any other matter for which there is insufficient provision in this Act and for which provision is, in the opinion of the Provincial Government, necessary for giving effect to the purposes of this Act.

The Official Trustees (Bengal Amendment) Act, 1941.

The following Act of the Bengal Legislature has been assented to in His Majesty's name by the Governor. [Vide Notification No. 308L., dated the 17th March 1941 of the Legislative Department, published in the *Calcutta Gazette*, Part III, dated the 20th March 1941.]

Bengal Act I of 1941.

[Passed by the Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette* of the 20th March 1941.]

An Act further to amend the Official Trustees Act, 1913, in its application to Bengal.

WHEREAS it is expedient further to amend the Official Trustees Act, 1913 in its application to Bengal, in the manner hereinafter appearing.

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Official Trustees (Bengal Amendment) Act, 1941.

Notes.

Object—"The power to examine witnesses on oath contained in section 30 of the Administrator General's Act has been found extremely useful by the Administrator General in connection with sworn statements substantiating the claims of creditors against Estates and with regard to particulars of persons entitled as next of kin, also in certificate cases under sections 31 and 32 of that Act.

The Official Trustee when appointed the sole Executor and sole Trustee under a deceased person's Will, is very often in the same position as the Administrator General is when administering Estates. It is accordingly proposed to give the Official Trustee for Bengal similar powers to examine witnesses on oath. [*Vide* Statement of Objects and Reasons, printed at page 335 of Part IVA of the *Calcutta Gazette*, 1940.]

2. Application of Act.—The Official Trustees Act, 1913, shall, in its application to Bengal, be amended in the manner hereinafter provided.

3. Insertion of new section 14A.—After section 14 of the Official Trustees Act, 1913 (hereinafter referred to as the said Act) the following section shall be inserted, namely:—

"14A. *Power to examine on oath*—The Official Trustee for Bengal may, whenever he desires, for the purposes of this Act, to satisfy himself regarding any question of fact, examine upon oath (which he is hereby authorised to administer) any person who is willing to be examined by him regarding such question".

4. Insertion of new section 30A.—After section 30 of the said Act, the following section shall be inserted, namely:—

"30A. *False evidence*.—Whoever, during any examination authorised by this Act, makes upon oath a statement which is false and which he either knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding".

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The Bengal Co-operative Societies Act, 1940.

The following Act of the Bengal Legislature has been assented to in His Majesty's name by the Governor General. [*Vide* Notification No. 494L., dated the 28th April 1941 of the Legislative Department, published at pages 13-62 of Part III of the *Calcutta Gazette*, dated the 1st May 1941.]

Bengal Act XXI of 1940.

[*Passed by the Bengal Legislature.*]

[Assent of the Governor General] was first published in the *Calcutta Gazette* of the 1st May 1941.]

An Act to amend the law relating to co-operative societies in Bengal.

WHEREAS it is expedient to make further provision for the formation and working of co-operative societies, and for the promotion of thrift, self-help and mutual aid among persons of moderate means with needs and interests in common, to the end that better conditions of living and better methods of production and business may thereby result, and for that purpose to amend the law relating to co-operative societies in Bengal;

It is hereby enacted as follows:—

CHAPTER I.**PRELIMINARY.**

1. *Short title, extent and commencement.*—(1) This Act may be called the Bengal Co-operative Societies Act, 1940.

(2) It extends to the whole of Bengal.

(3) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

Notes.

Object.—Since 1912 when the Co-operative Societies Act, 1912, was passed, the progress and development of the co-operative movement in this Province has been large and manifold. The movement has travelled into a much wider field than was perhaps originally conceived. The number and variety of credit and non-credit societies have grown with surprising rapidity, while the movement has enlisted the active interest of the more advanced and educated sections of the people in the country who have proved their capacity for tackling the problems of collective marketing of agricultural commodities, of minor irrigation facilities, of redemption of prior debts, of improvement of agriculture and of housing accommodation in congested urban areas, etc. The inadequacy of the provisions contained in Act II of 1912 for meeting the demands of the movement in its present magnitude and for effectively controlling the working of the societies has caused the utmost difficulty, and the necessity of amending the present Act and replacing it by a more comprehensive one has been keenly felt for sometime.

In many cases the deterioration in the general condition of a society has been due to the misdemeanours of one or two influential office-bearers, the Registrar being powerless to intervene effectively. It is obviously unfair that the whole society should suffer for the faults of one or two individuals, and it is accordingly desirable that there should be some means of stopping such malpractices before it is too late and before the society's position is seriously damaged. One of the most serious drawbacks of the 1912 Act is that there is no penalty attached to acts of maladministration or to any failure to comply with the provisions of the Act or rules made by Government thereunder except the ultimate and drastic step of putting the society into liquidation. This omission has resulted in a great laxity in

the management and administration of the societies, and even the most elementary business principles, viz., honesty, punctuality, maintenance of proper accounts, diligence in payment when due, have been disregarded by the office-bearers of the societies with impunity. The financial stability of the societies has been jeopardised owing to the inadequacy of the provisions restricting the borrowing by members of societies. Submission of false or inaccurate information by borrowing members regarding their assets and liabilities and the misuse of the loans taken from the societies had led to overfinancing and to wilful default in payment. The defects noticed during the audit or inspection of the societies have been more or less disregarded, and it is seldom that prompt steps have been taken to rectify them.

Adequate provisions have been made in the present Act to guard against the above mentioned abuses and to inflict punishment for wilful failure, wilful neglect or refusal to carry out the provisions of the Act and rules made thereunder, for wilful submission of false returns and disobedience of summons. The existence of the penal sections will stimulate business methods in the minds of co-operators and the provisions are based upon Parliament's Industrial and Provident Societies Acts, 1893 to 1928, and also upon Acts of other provinces. Sufficient protection has, however, been provided against any unwarranted exercise of any of the summary powers by permitting appeal or review or revision in all such cases. At the same time, various statutory provisions have been made for encouraging a true co-operative spirit among the workers and members of societies, while facilities have been provided for enabling the societies to obtain State aid in suitable cases, and also for the speedy realisation of co-operative dues in a summary manner, when wilful defaults render such action necessary.

The Act has been drafted specially to meet the requirements of this Province. Its important provisions may be briefly summarised as follows :—

The preamble has been recast so as to widen the scope of the movement for registering societies having as their object the promotion of the common interest of members in accordance with co-operative principles. Although co-operation is almost the only avenue of escape from poverty, its benefits are equally open to all who believe in its fundamental principles and are prepared to work in accordance with these for their economic improvement. There is no reason why co-operation should be restricted to poor persons only. Thus the expression "persons of limited means" in the preamble to the existing Act has been omitted.

Provisions have also been made (a) to delegate the powers of the Registrar to well managed financing Banks and Federations, (b) to obtain financial assistance from State directly or indirectly, (c) to improve the finances of the movement by suitable restrictions on the grant of loans, (d) to facilitate the collection of dues of co-operative societies by the summary process prescribed by the Bengal Public Demands Recovery Act, 1913, (e) to prevent fraudulent disposal of property by a borrowing member pending dispute or liquidation, (f) to make audit more thorough and effective, (g) to ensure utilisation of the loan for the purpose for which it has been advanced, (h) to obtain accurate information regarding the assets and liabilities of the borrowing members as a safeguard against over-financing, (i) to reconstitute or to supersede a Committee of Management for persistent

mismanagement, as an intermediate stage between normal working and liquidation in order to give the society an opportunity to improve its working, (j) to charge and surcharge for the liability disclosed by audit or inspection for acts done to the detriment of the interest of the Society, (k) to ensure rectification of defects noticed at audit or inspection, (l) to effect compromise between a co-operative society and its creditors, (m) to facilitate the working and expansion of the Co-operative Land Mortgage Bank by distraint of produce and foreclosure and sale of mortgaged property, and (n) to bar effectively the jurisdiction of the Civil and Revenue Courts in matters relating to the administration of co-operative societies.

In short the Act seeks to check abuses, inculcate a healthy sense of responsibility on the managing committees of co-operative societies, to improve the working of the present organisations and to ensure the soundness of future development." [Vide Statement of Objects and Reasons, printed at pages 105-106 of Part IV A of the *Calcutta Gazette*, 1938.]

2. *Definitions*.—In this Act, unless there is anything repugnant in the subject or context—

(a) "arbitrator" means a person appointed under clause (c) of subsection (1) of section 87 to decide any dispute referred to him;

(b) "audit officer" means a person authorised under section 76 by general or special order to audit the accounts of a co-operative society;

(c) "by-laws" means the by-laws registered or deemed to have been registered under this Act, and includes a registered amendment of the by-laws;

(d) "central co-operative land mortgage bank" means a co-operative society, the objects of which include the creation of funds to be lent to co-operative land mortgage banks;

(e) "co-operative land mortgage bank" means a co-operative society, the objects of which include the creation of funds to be lent to members on long terms upon mortgage of their immovable property;

(f) "co-operative society" means a society registered or deemed to be registered under this Act;

(g) "co-operative society with limited liability" means a co-operative society having the liability of its members limited by its by-laws to the amount, if any, unpaid on the shares respectively held by them or to such amount as they may respectively thereby undertake to contribute to the assets of the society in the event of its being wound up;

(h) "co-operative society with unlimited liability" means a co-operative society having, subject to its by-laws, an unlimited liability of its members to contribute jointly and severally any deficiency in the assets of the society;

(i) "co-operative year" means such period of twelve months as may be prescribed for keeping the accounts of a co-operative society;

(j) "dispute" means any matter capable of being the subject of civil litigation, and includes a claim in respect of any sum payable to or by a co-operative society;

(k) "financing bank" means a co-operative society, the objects of which include the creation of funds to be lent to other co-operative societies;

(l) "liquidator" means a person appointed under section 90 to wind up the affairs of a co-operative society;

(m) "managing committee" means the committee of management of a co-operative society constituted under section 23 ;

(n) "member" includes a person joining in an application for registration of a society and a person admitted to membership after registration in accordance with the rules and by-laws ;

(o) "net profits" means profits after deduction of establishment charges, contingent charges, interest payable on loans and deposits, audit fees and such other sums as may be prescribed ;

(p) "officer" includes a president, vice-president, chair-man, vice-chairman, secretary, assistant secretary, manager, treasurer, member of a managing committee, auditor elected from among the members and any other person empowered under the rules or by-laws to give directions in regard to the business of a co-operative society ;

(q) "prescribed" means prescribed by rules made under this Act ;

(r) "Registrar" means a person appointed to perform the duties of a Registrar of Co-operative Societies under this Act ;

(s) "rules" means rules for the time being in force made under this Act ;

(t) "Trustee" means the person appointed to be a Trustee under sub-section (1) of section 34.

3. *Repeal*.—The enactments specified in columns 2, 3 and 4 of the First Schedule are hereby repealed, in so far as they apply to Bengal, to the extent specified in column 5 of that Schedule.

4. *Saving of existing societies, etc.*—(1) Every society existing at the commencement of this Act which has been registered or deemed to have been registered under the Co-operative Societies Act, 1912, shall be deemed to be registered under this Act ; and its by-laws shall, in so far as they are not inconsistent with the provisions of this Act, continue in force until altered or rescinded and shall to such extent be deemed to be registered under this Act.

(2) All appointments, rules and orders made, all notifications and notices issued, all transactions entered into and all suits and other proceedings instituted under the Co-operative Societies Act, 1912, shall be deemed, so far as may be, to have been respectively made, issued, entered into or instituted under this Act.

5. *Construction of references to Act II of 1912*.—All references to the Co-operative Societies Act, 1912, occurring in any enactment made by any authority in British India and for the time being in force in Bengal shall, in the application of any such enactment thereto, be construed as references to this Act ; and anything done or any proceeding commenced in pursuance of any such enactment on or after the commencement of this Act shall be deemed to have been done or to have been commenced and to have had effect as if the reference in such enactment to the Co-operative Societies Act, 1912, had been a reference to this Act, and no such thing or proceeding shall be deemed to have been invalid on the ground that such enactment did not refer to this Act.

6. *Act VII of 1913 not to apply*.—The provisions of the Indian Companies Act, 1913, shall not apply to co-operative societies.

7. *Prohibition of the use of the word "co-operative"*.—No person other than a co-operative society shall trade or carry on business under any name or title of which the word "co-operative" or its vernacular equivalent "samavaya" is part ;

Provided that nothing in this section shall apply to the use by any person or by his successor in interest of any name or title under which he lawfully traded or carried on business at the commencement of this Act.

8. Power to exempt co-operative societies from the provisions of the Act.—(1) The Provincial Government may, by rules—

(a) exempt any co-operative society or class of such societies from the application of any of the provisions of this Act or of any rules made thereunder, or

(b) direct that any of such provisions shall apply to such society or class of societies to such extent as may be specified in the rules.

(2) The power to make rules conferred by sub-section (1) shall be subject to the condition that no rule be made to the prejudice of a co-operative society without giving such society an opportunity to represent its case.

CHAPTER II.

REGISTRATION.

9. Appointment of Registrar and of persons to assist him.—The Provincial Government may appoint a person to be Registrar of Co-operative Societies for Bengal and may appoint persons to assist him.

10. Conferment of powers of Registrar.—Subject to the rules, the Provincial Government may, by general or special order in this behalf, confer all or any of the powers entrusted to the Registrar by or under this Act, other than those specified in the Second Schedule,—

(a) upon any person appointed under section 9 to assist the Registrar ; and

(b) upon any co-operative society in respect of any other co-operative society which is a member of the co-operative society first mentioned.

11. Societies which may be registered.—(1) Subject to the provisions of this Act and of any rules, a society which has as its object the promotion of the common interests of its members in accordance with co-operative principles, or a society established with the object of facilitating the operation of such a society, including a society formed by the division of an existing co-operative society or amalgamation of existing co-operative societies, may be registered under this Act with or without limited liability.

(2) The word "limited" shall be the last word in the name of a society registered under this Act with limited liability.

12. Conditions of registration.—Unless the Provincial Government by general or special order otherwise directs, a society shall not be registered under this Act—

(a) with limited liability, if its object include the creation of funds to be lent to its members, and if—

(i) it has any withdrawable share capital ; or

(ii) the majority of the members are agriculturists and no member is a co-operative society ; or

(b) with unlimited liability, if any member is a co-operative society.

13. Applications for registration.—An application for registration of a society shall be made to the Registrar in the prescribed manner and shall be accompanied by a copy of the proposed by-laws ; and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Registrar may require.

14. Registrar to decide certain questions.—The Registrar shall decide all questions as to whether the application complies with the pro-

visions of this Act and the rules and whether the objects of the society are in accordance with section 11.

15. Registration.—If the Registrar is satisfied that the application complies with the provisions of this Act and the rules and that the proposed by-laws are not contrary thereto, he shall, unless for reasons to be recorded in writing he thinks fit to refuse, register the society and its by-laws.

16. Evidence of registration.—A certificate of registration signed by the Registrar shall be issued to the society and shall be conclusive evidence that the co-operative society therein mentioned is a co-operative society duly registered under this Act and that its by-laws are as attached to the certificate, unless it is proved that the registration of the society has been cancelled or that the by-laws have been amended in accordance with section 17 or section 18.

17. Amendment of by-laws of a co-operative society.—(1) No amendment of any by-law of a co-operative society, whether by way of addition, cancellation or alteration, shall be valid until such amendment has been registered under this Act.

(2) Every proposal for such amendment, framed in accordance with the rules, shall be forwarded to the Registrar; and if the Registrar is satisfied that the proposed amendment is not contrary to the provisions of the Act or the rules, he shall, unless for reasons to be recorded in writing he sees fit to refuse, register the amendment.

(3) The Registrar shall forward to the society a copy of the amendment thus registered, together with a certificate signed by him; and such certificate shall be conclusive evidence that the amendment has been duly registered.

18. Power of financing bank to direct amendment of by-laws.—(1) Subject to the rules, if it appears to a financing bank that an amendment of the by-laws of a co-operative society which is a member and a debtor of such bank is necessary or desirable in the interests of such society, it may, in the prescribed manner, call upon the society to make the amendment within such time as it may specify.

(2) If the society fails to make the amendment within the time specified, the financing bank may, after affording the society an opportunity of being heard, forward to the Registrar the amendment which it considers necessary or desirable, and the Registrar, if satisfied that the amendment is not contrary to the provisions of the Act or the rules, may thereupon register the amendment and forward to the society in the prescribed manner a copy thereof, together with a certificate signed by him which shall be conclusive evidence that the amendment has been registered; and such amendment shall thereupon be binding upon the society and its members.

Notes.

The financing banks being primarily interested in the bye-laws of societies, it was thought expedient to empower such banks to take the initiative in the matter of amendment of such bye-laws as they consider necessary. The societies have been given a right to be heard, whenever there is a proposal for amendment of their bye-laws, both by the financing banks concerned and the Registrar. The financing banks have also been given a right of appeal against any adverse decision by the Registrar.

CHAPTER III.

STATUS AND MANAGEMENT OF CO-OPERATIVE SOCIETIES.

19. Co-operative societies to be bodies corporate.—The registration of a co-operative society shall render it a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to hold property, to enter into contracts, to institute and defend suits and other legal proceedings and to do all things necessary for the purposes for which it was constituted.

20. Final authority of co-operative society.—(1) The final authority of every co-operative society shall vest in the general body of members in general meeting :

Provided that, in such circumstances as may be prescribed, the final authority may vest in the delegates of such members, elected in the prescribed manner and assembled in general meeting.

(2) The general meeting shall be summoned and shall exercise its authority in such manner as may be prescribed.

21. Annual general meeting—(1) A general meeting of every co-operative society shall be held once at least in every co-operative year for the purpose of—

(a) electing members of the managing committee and such other officers as may be provided in the by-laws,

(b) considering the audit report referred to in section 79, and

(c) considering any other matter which may be brought forward in accordance with the by-laws.

(2) Such meeting shall be held not more than fifteen months after the date of the last preceding meeting held under sub-section (1) and, unless the Registrar on special grounds extends the period, within three months of date prescribed for the receipt by the co-operative society of the audit report referred to in section 79 :

Provided that the Registrar may, if he thinks fit, permit such meeting to be held not more than eighteen months after the date of the last preceding meeting held under sub-section (1).

Notes.

This section defines specifically the purposes for which the annual general meeting is to be held and limits the Registrar's power of extending the date by which the meeting is to be held.

22. Special general meeting.—(1) A special general meeting may be called at any time by a majority of the members of the managing committee and shall be called—

(a) on the requisition in writing of one-third of the members of any co-operative society having not more than five hundred members or of one-fifth of the members of any other society : or

(b) at the instance of the Registrar :

Provided that, in the case of any society having more than two thousand five hundred members, a requisition under clause (a) may be presented by delegates elected in the prescribed manner.

(2) The Registrar, or any person authorised by him in this behalf by special order in writing, may call a general meeting of a co-operative society at any time, and shall call such a meeting upon failure of society to call a meeting on a requisition by the members or at the instance of the Registrar under sub-section (1).

(3) Notwithstanding any rule or by-law prescribing the period of notice for, and the method of summoning, a general meeting, the Registrar, in the case of a meeting called at his instance under sub-section (1), or the person calling the meeting in the case of a meeting called under sub-section (2), may specify the time and place for the meeting, the manner in which it shall be summoned and the matters which shall be discussed thereat.

23. Managing committee.—The management of every co-operative society shall vest in a managing committee constituted in accordance with the rules and by-laws, which shall exercise such powers and perform such duties as may be conferred or imposed respectively by this Act, the rules and the by-laws.

24. Power to depute servant of the Crown to manage affairs of a co-operative society.—The Provincial Government may, on the application of a co-operative society and on such conditions as may be prescribed, depute a servant of the Crown to the service of the society for the purpose of managing its affairs, and a servant of the Crown so deputed shall exercise such powers and perform such duties as may be prescribed.

25. Dissolution and reconstitution of managing committee.—(1) If the Registrar, after an inspection under section 82 or an inquiry under section 84, is satisfied for reasons to be recorded by him in writing that the managing committee of a co-operative society is mismanaging its affairs, he may, under clause (b) of sub-section (1) of section 22, direct that, within such time as he may determine, a special general meeting of the society shall be held to dissolve and reconstitute the managing committee.

(2) In any direction made under sub-section (1) the Registrar may, for reasons to be recorded by him in writing, order that all or any of the members of the outgoing committee shall, for such period not exceeding three years as he may determine, be disqualified for election or appointment as an officer of the society.

26. Dissolution of managing committee and appointment of person to manage affairs of co-operative society.—(1) If the managing committee is not dissolved and reconstituted within the time determined, and in such manner as may be directed, by the Registrar under section 25, he may by order dissolve the managing committee, the members of which shall forthwith vacate their office; and the Registrar shall thereupon appoint one or more suitable persons, on such conditions as may be prescribed, to manage the affairs of the co-operative society for such period not exceeding one year, and to arrange for the constitution of a new managing committee by such date, as the Registrar may determine:

Provided that the Provincial Government may extend the period of one year for such further period not exceeding two years as it may think fit.

(2) An order under sub-section (1) shall be in writing, shall set forth the reasons for which it is passed, and shall be passed only after an opportunity has been given to the managing committee to state its objections thereto.

Notes.

Sections 25 and 26 were recast by the Select Committee. It was considered desirable to make it clear that in case of mismanagement a society must, in the first instance, have an opportunity of reconstituting the Managing Committee. It was also considered necessary to give the Registrar power to

debar undesirable elements from entering into or remaining in the Managing Committee for specified periods, and also to arrange for the appointment of a fresh Managing Committee within a reasonable time which may be extended by the Provincial Government. Appeals against orders disqualifying a member and also superseding a Managing Committee have also been provided for in the schedules as a sufficient safeguard against improper or unjustifiable interference.

27. Tenure of office of person appointed under section 26.—A person appointed under section 26 shall hold office until the managing committee is reconstituted or his appointment is cancelled by the Registrar.

28. Management of co-operative society on dissolution of its committee.—During the tenure of office of a person appointed under section 26—

(a) all properties of the co-operative society shall vest in the Registrar; and

(b) subject to the control of the Registrar, and notwithstanding the preferring of any appeal under section 134, such person shall exercise all the powers and perform all the duties which may under this Act, the rules and the by-laws, be exercised or performed by the managing committee or any officer of the society.

CHAPTER IV.

DUTIES AND OBLIGATIONS OF CO-OPERATIVE SOCIETIES.

29. Address of co-operative society.—Every co-operative society shall have an address, registered in accordance with the rules, to which all notices and communications may be sent, and shall send notice in writing of every change thereof, within thirty days of such change, to the Registrar and to the financing bank, if any, of which it is a member.

30. Copy of Act, etc., to be open to inspection.—Every co-operative society shall keep open to inspection free of charge at all reasonable times at the address of the society—

- (a) a copy of this Act;
- (b) a copy of the rules;
- (c) a copy of the by-laws of the society;
- (d) a register of members; and
- (e) such other documents as may be prescribed.

31. Publication of annual balance sheet.—The balance sheet authenticated by the audit officer shall be annually published by every co-operative society in the prescribed manner.

32. Restrictions on borrowing.—A co-operative society shall receive deposits and loans from persons who are not members only to such extent and under such conditions as may be prescribed by the rules or by-laws; and shall in respect of such deposits or loans make such provision for the maintenance of fluid resource as may be prescribed.

33. Power of Provincial Government to guarantee principal and interest of debentures.—(1) In the case of any debentures or of any class or series of issue of debentures issued under this Act, the Provincial Government shall—

(a) guarantee the principal thereof and the interest thereon, subject to such maximum amount of principal or such rate of interest and to such other conditions as may be prescribed; and

(b) notwithstanding anything contained in the Indian Trusts Act, 1882, declare that such debentures shall be deemed to be included among the securities enumerated in section 20 of the said Act.

(2) Such debentures shall not be issued save with the express authority of the Provincial Government.

34. Issue of guaranteed debentures.—(1) When a co-operative society is authorised under the provisions of sub-section (2) of section 33 to receive loans by the issue of debentures, the principal of and interest on which is so guaranteed, the Provincial Government shall appoint the Registrar or some other person to be the Trustee for the purpose of securing the fulfilment of the obligations of the society to the holders of the debentures.

(2) With the previous sanction of the Trustee and subject to such conditions as he may impose, a co-operative society may issue debentures of one or more denominations for such period as it may deem expedient on the security of the assets of the society, including any mortgages which it holds by acceptance, assignment or transfer.

(3) Such debentures may be issued subject to either or both of the following conditions, namely:—

(a) fixing a period, not exceeding thirty years from the date of issue, during which they shall be irredeemable,

(b) reserving to the society the right to call in at any time any previously issued debentures in advance of the date fixed for redemption, after giving to the debenture-holder concerned not less than three months' notice in writing,

and may be, subject also to any other conditions imposed by the Trustee.

(4) The total amount payable in respect of debentures issued by a society (including any debentures issued before the commencement of this Act) and outstanding at any time shall not exceed the total amount due on the mortgages, the amounts paid thereunder and remaining in the hands of the society or of the Trustee at such time and the value of all other assets of the society held by transfer or assignment subsisting at that time.

(5) Where a co-operative society has called in any debenture in advance of the date fixed for redemption, the society shall, subject to the previous permission of the Trustee, have the power to cancel the debenture and issue any new debenture in place of the debenture paid off or otherwise satisfied or extinguished, or to reissue the debenture either by reissuing the same debenture or by issuing another debenture in its place; and by virtue of such reissue the person entitled to such debenture shall have, and shall be deemed to have always had, the same rights and priorities, if any, as if the debenture had not been previously issued.

35. Trustee to be a corporation sole.—The Trustee appointed under section 34 shall be a corporation sole by the name of the Trustee for the debentures in respect of which he is appointed, and as such shall have perpetual succession and a common seal and in his corporate name shall sue and be sued.

36. Powers and functions of Trustee.—(1) The powers and functions of the Trustee shall be governed by the provisions of this Act and the instrument of trust executed between the co-operative society and the Trustee.

(2) The form of such instrument, and any modification which the parties thereto may mutually agree to make in any of its terms after its execution, shall be subject to the previous approval of the Provincial Government.

37. *Debenture holders' charge on assets.*—Upon the issue of debentures under the provisions of sub-section (2) of section 34, the assets of the co-operative society, including any mortgages which it holds by acceptance, assignment or transfer, shall vest in the Trustee and the holders of debentures shall have a floating charge on all such assets, including the amounts paid under such mortgages and remaining in the hands of the Trustee or the society, and on the properties of the society.

38. *Power of Provincial Government to give financial assistance.*—Notwithstanding anything contained in any other law for the time being in force, the Provincial Government may, subject to the rules grant loans to, take shares in, or give financial assistance, in any other form to any co-operative society.

39. *Restrictions on lending.*—(1) A co-operative society shall not make loans—

(a) to any person other than a member ; or

(b) to a member in excess either of the maximum or of the normal credit determined by the society for that member in accordance with the rules, whichever may be prescribed ; or

(c) save with the special sanction of the Registrar given in accordance with the rules, on the security of movable property. -

(2) The Provincial Government may, by general or special order, after giving any society likely to be affected thereby an opportunity of being heard in such manner as may be prescribed, prohibit or restrict the lending of money on mortgage of immovable property by any society or class of societies other than a co-operative land mortgage bank.

40. *Restrictions on other transactions with non-members.*—Save as provided in sections 32 to 39 inclusive, 48 and 49, the transactions of a co-operative society with persons other than members shall be subject to such prohibitions and restrictions, if any, as may be prescribed.

41. *Liability to furnish information.*—Every officer and every member of a co-operative society shall furnish such information in regard to the transactions or working of the society as may be required of him by the Registrar or an audit officer, arbitrator, liquidator or any person conducting an inspection or inquiry under Chapter VIII.

CHAPTER V.

PRIVILEGES OF CO-OPERATIVE SOCIETIES.

42. *Change of name and its effect.*—(1) With the previous approval of the Registrar, a co-operative society may, by a resolution passed at a general meeting, change its name.

(2) Such change of name shall not effect any right or obligation of the society or of any of its members, or past members, or of the estate of any of its deceased members ; and any legal proceedings pending on the date of such change in which such society is a party may be continued by or against the society under its new name.

43. *Change of liability.*—(1) Subject to the provisions of this Act and of the rules, a co-operative society, with the previous approval of the Registrar, may, by a resolution passed at a general meeting, change its form of liability.

(2) When such a resolution has been passed, the society shall give notice thereof in writing in the prescribed manner to all its members and creditors and, notwithstanding any by-law or contract to the contrary, any member or creditor shall, within six months of the service of the notice upon him, have the option of withdrawing his shares, deposits or

loans. Any member or creditor who does not exercise his option within the period aforesaid shall be deemed to have assented to the change.

(3) The change shall not take effect until either—

(a) the assent thereto of all members and creditors has been secured ;

or

(b) all claims of members and creditors who exercise the option referred to in sub-section (2) have been met in full.

44. Co-operative society's power to call for statement of claims.—

(1) When a member of a co-operative society which includes among its objects the advance of loans to its members applies for a loan or when a person applies for membership of such a society, the society may in the prescribed manner serve a notice on any creditor named in the application or ascertained after subsequent inquiry, and may also publish a general notice on all creditors, requiring him or them, in the prescribed form and within the time specified in the notice, to furnish a written statement of his or their claim.

(2) When a member of a co-operative society which includes among its objects the advance of loans to its members intends to apply for a loan from any person other than the society, such member shall send to the society a notice in writing stating—

(a) his intention to apply for such loan,

(b) the amount of the loan for which he intends to apply, and

(c) the object of taking the loan.

45. Co-operative society's power to call for notice of rent suit.—A co-operative society which includes amongst its objects the advance of loans to its members, and the financing bank, if any, of which such society is a member, may by a notice served in the prescribed manner upon the landlord of any member of such society require the landlord to furnish to such society or the financing bank or both notice of any rent suit instituted by him against such member.

46. Limitation.—Notwithstanding any of the provisions of the Indian Limitation Act, 1908, the period of limitation for the institution of a suit to recover any sum, including interest thereon, due to a co-operative society by a member thereof shall be computed from the date on which such member dies or ceases to be a member of the society.

47. Debts due to co-operative societies to be a first charge.—(1) Notwithstanding anything contained in sections 60 and 61 of the Code of Civil Procedure, 1908, or in the Bengal Tenancy Act, 1885, but subject to any claim of the Provincial Government in respect of land revenue, or any sum recoverable as land revenue or as a public demand, or of a landlord in respect of rent or any sum recoverable as rent, any debt or outstanding demand due to a co-operative society by any member, past member or the estate of any deceased member shall be a first charge—

(a) if such debt or demand is due in respect of the supply of, or any loan to provide the means of paying for seed, manure, labour, subsistence, fodder for cattle or any other thing incidental to the conduct of agricultural operations,—upon the crops or agricultural produce of such member, past member or belonging to the estate of such deceased member, at any time within two years from the date on which the last instalment of such supply or loan became repayable ;

(b) if such debt or demand is due in respect of the supply of, or of any loan to provide the means of paying for, irrigation facilities,—upon the crops or agricultural produce of such member, past member or belong-

ing to the estate of such deceased member, at any time within two years from the date on which the last instalment of such supply or loan became repayable, or upon the crops or agricultural produce of the land so provided with irrigation facilities ;

(c) if such debt or demand is due in respect of the supply of, or any loan for the purchase of cattle, agricultural implements or warehouses for the storage of agricultural produce—in the manner and to the extent aforesaid upon the crops or agricultural produce of such member, past member or belonging to the estate of such deceased member and also upon the cattle, agricultural implements or warehouses thus supplied or purchased wholly or in part from any such loan ;

(d) if such debt or demand is due in respect of the supply of, or any loan for the purchase of raw materials, industrial implements, machinery, workshops, warehouses or business premises,—upon the raw material or other things supplied or purchased by such member, past member or deceased member wholly or in part from any such loan and also upon any articles manufactured from raw materials or with implements or machinery so supplied or purchased wholly or in part from any such loan ;

(e) if such debt or demand is due in respect of any loan for the purchase or redemption of land, upon the land purchased or redeemed by such member, past member or deceased member from any such loan ; and

(f) if such debt or demand is due in respect of any loan for the purchase or construction of any house or building or any portion thereof or in respect of the supply of materials for such construction,—upon the house or building so purchased or constructed by such member, past member or deceased member from any such loan or material.

(2) Nothing in clauses (a), (c), (d), (e) or (f) of sub-section (1) shall affect the claims of any *bona fide* purchaser or transferee for value without notice of any such crops or other agricultural produce, fodder, cattle, agricultural or industrial implements, machinery, raw materials, workshops, warehouses, premises, manufactured articles, houses, buildings or land.

48. Levy of water rate on non-members.—(1) A co-operative society, an object of which is the provision of irrigational facilities to the cultivable land of its members, may in the prescribed form apply to the Collector for demarcation of the area irrigable from any source of irrigation other than a tank which has, under section 4 of the Bengal Tanks Improvement Act, 1939, been declared to be a derelict tank.

(2) Such area shall be termed the "irrigable area".

(3) On receipt of such application, the Collector shall, after giving notice in the prescribed manner, cause to be prepared, in the prescribed form, by an officer subordinate to him, a map of the irrigable area and a statement of the cultivable lands included therein ; and such map and statement shall be published in the prescribed manner.

(4) If the lands possessed by the members of such society comprise not less than sixty *per centum* of the cultivable lands included in the irrigable area, such society may, subject to rules made in this behalf, levy a water rate upon any non-member of the society possessing within such area cultivable land which is benefited by the irrigational facilities referred to in sub-section (1).

(5) Such water rate shall be recoverable in the manner provided in this Act for the recovery of sums due to the society by the members, past members and deceased members thereof.

49. Levy of embankment protection rate on non-members.—(1) A co-operative society, an object of which is the provision of embankment protection facilities to the lands of its members, may in the prescribed form apply to the Collector for demarcation of the area protected by any embankment.

(2) Such area shall be termed the "protected area."

(3) On receipt of such application, the Collector shall, after giving notice in the prescribed manner, cause to be prepared in the prescribed form, by an officer subordinate to him, a map of the protected area and a statement of the lands included therein; and a copy of such map and statement shall be published in the prescribed manner.

(4) If the lands possessed by the members of such society comprise not less than sixty per centum of the lands included in the protected area, such society may, subject to rules made in this behalf, levy an embankment protection rate upon any non-member of the society possessing land within such area.

(5) Such embankment protection rate shall be recoverable in the manner provided in this Act for the recovery of sums due to the society by the members, past members and deceased members thereof.

Notes.

Sections 48 and 49 are intended to remove a great difficulty felt by irrigation and embankment societies, which are hampered by the fact that persons whose lands are situated near to the source of irrigation or to the embankment frequently refuse to join such a society, confident that the proposed benefit must accrue to them whether they join or not. Such societies have consequently been provided with facilities to secure a demarcation of the area to be benefited, and where 60 per cent. of this area is possessed by members of the society, to levy an equitable rate upon non-members.

50. Charge and set off in respect of share or interest of members.—A co-operative society shall have a charge upon the share or interest in the capital and the deposits of a member or a past or deceased member and upon any amount payable out of profits to a member or past member or the estate of a deceased member in respect of any debt due from such member or past member or the estate of such deceased member to the society and may, subject to the provisions of sections 69 to 73 inclusive and of the rules and by-laws, set off any sum credited or payable to a member, past member or the estate of a deceased member in or towards the payment of any such debt.

51. Deduction of dues to co-operative societies from salaries of members.—If a member of a co-operative society, who is in the employment of the Crown in India or of any local authority or of any other person, takes a loan from a co-operative society in terms of a written contract to repay such loan by instalments, and authorises the society in writing to recover such instalments by deduction from his salary, the person who disburses any amount payable to such member as salary in respect of such employment shall, on demand from the society, deduct the amount of such instalment from the amount disbursed to such member as salary and shall forthwith remit to the society the amount so deducted.

52. Exemption from compulsory registration of instruments relating to shares and debentures of co-operative society.—Nothing in clauses (b) and (c) of sub-section (1) of section 17 of the Indian Registration Act, 1908 shall apply to—

(a) any instrument relating to shares in a co-operative society, notwithstanding that the assets of such society consist wholly or in part of immovable property; or

(b) any debenture issued by any such society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property, except in so far as it entitles the holder to the security afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures; or

(c) any endorsement upon or transfer of any debenture issued by any such society.

53. Power to remit certain duties, fees etc.—(1) The Provincial Government may by general or special order in the case of any co-operative society or class of co-operative societies remit any tax, cess or fee payable under any law for the time being in force or the rules framed thereunder in respect of which the Provincial Government is competent to remit such tax, cess or fee.

(2) In respect of any co-operative society or class of co-operative societies the Provincial Government may, by notification in the *Official Gazette*, remit—

(a) the stamp duty (other than stamp duties falling within item 57 or item 59 in List I in the Seventh Schedule to the Government of India Act, 1935) in respect of any instrument executed by, or on behalf of, or in favour of, a co-operative society or by an officer or on behalf of a member thereof and relating to the business of such society, in cases where, but for such remission, the co-operative society, officer or member thereof, as the case may be, would be liable to pay the stamp duty chargeable under any law for the time being in force in respect of such instrument, and

(b) any fee payable by a co-operative society under any law for the time being in force for the registration of documents.

Notes.

Sub-section (2) is necessitated by the division between Central and Provincial Governments of the jurisdiction over stamp duties: sub-section (2) of section 28 of the Co-operative Societies Act II of 1912 is being repealed in so far as it relates to the stamp duties referred to in this sub-section, which fall within the jurisdiction of the Provincial Government.

54. Power of Registrar to sanction a compromise between a co-operative society and its creditors.—(1) Notwithstanding anything contained in this Act, where a compromise or arrangement is proposed between a co-operative society and its creditor or creditors or any class of them the Registrar, upon an application made in the prescribed manner by the society or by any creditor or, in the case of a society in respect of which an order has been passed for the winding up thereof, by the liquidator, may order a meeting of the creditors or the class of creditors, as the case may be, to be called, held and conducted in such manner as may be prescribed.

(2) If a majority in number of the creditors or the class of creditors, as the case may be, representing claims to three fourths of the debts due

by the society to the creditors or the class of creditors, present either in person or by proxy at the meeting agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by the Registrar, upon publication in the prescribed manner, be binding on all the creditors or the class of creditors, as the case may be, and also on the society or, in the case of a society in respect of which an order has been passed for the winding up thereof, on the liquidator and on all persons who have been or may be required by the liquidator under section 91 to contribute to the assets of the society.

CHAPTER VI.

PROPERTY AND FUNDS OF CO-OPERATIVE SOCIETIES.

55. Investment of funds.—A co-operative society may invest or deposit its funds—

- (a) in a Government Savings Bank ; or
- (b) in any of the securities specified in section 20 of the Indian Trusts Act, 1882 ; or
- (c) with the sanction of the Registrar, in the shares or debentures or on the security of any other co-operative society with limited liability ; or
- (d) in any other manner prescribed.

56. Reserve Fund.—(1) Every co-operative society shall maintain a reserve fund in respect of the profits, if any, derivable from its transactions.

(2) Of the net profits of a co-operative society in each year there shall be carried to the reserve fund not less than twenty-five per centum or such higher proportion as may be prescribed for such society or class of societies.

(3) Save to the extent that, and in such manner as, may be prescribed no part of its reserve fund shall be used in the business of a co-operative society.

(4) Subject to the rules, any portion of the reserve fund not used in the business of the society shall be invested or deposited—

- (a) in the Government Savings Bank ; or
- (b) in any of the securities specified in section 29 of the Indian Trusts Act, 1882, other than those specified in clause (c) of that section ; or
- (c) in any other bank approved by the Registrar.

Notes.

This section specifies clearly the ways in which the reserve funds of societies may be invested without leaving it to the discretion of the persons responsible for the management of the societies for the time being. This is likely to raise public confidence in the societies with regard to their stability and financial soundness.

57. Distribution of profits.—(1) Save as may be prescribed, no distribution of profits shall be made in the case of a co-operative society with unlimited liability ; and save as provided in this section, no part of the funds of a co-operative society shall be divided by way of dividend or bonus or otherwise among its members.

(2) No dividend or bonus shall be paid—

- (a) otherwise than out of profits, certified by the audit officer to have been actually realised ; or
- (b) without the previous sanction of the Registrar, if the audit officer reports that any asset is bad or doubtful and also recommends that such sanction is necessary ?

Provided that the audit officer shall not so recommend if such assets are adequately covered

(3) Subject to the provisions of sub-section (2), after the proportion required by sub-section (2) of section 56 has been carried to the reserve fund from the net profits of any year, the balance of such profits, together with undistributed profits of past years if any, may, to such extent and under such conditions as may be prescribed, be distributed as dividend among the members or paid as bonus or remuneration to a member or employee for any specific service rendered to the society.

(4) No contribution under section 58 shall be paid otherwise than out of profit actually realised.

58. Contribution to charitable purposes.—After there has been carried to the reserve fund the proportion of the net profits of any year required by sub-section (2) of section 56, a co-operative society

(a) shall, in the manner prescribed, contribute an amount not exceeding five per centum of the balance of the year's remaining net profits for co-operative education or for such other co-operative purpose as may be prescribed, and

(b) may in accordance with the rules contribute not more than ten per centum of such balance for any charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890.

Notes.

In addition to the voluntary contribution to charity this section provides for a compulsory contribution to a fund for furthering the objects of the co-operative movement.

59. Provident fund.—(1) A co-operative society may establish a provident fund for its members, officers, or servants from the contributions of such members, officers or servants, as the case may be, and, after there has been carried to the reserve fund the proportion of net profits in any year required by sub-section (2) of section 56 and after there has been paid the contribution required by clause (a) of section 58, may make such contribution to the provident fund as may be provided for in the rules or by-laws.

(2) Such provident fund shall not be used in the business of the society, but shall be invested or deposited in one or more of the ways specified in sub-section (4) of section 56.

CHAPTER VII.

PRIVILEGES, LIABILITIES AND OBLIGATIONS OF MEMBERS OF CO-OPERATIVE SOCIETIES.

60. Votes of members.—(1) Subject to the rules relating to voting by delegates, no member of a co-operative society shall have more than one vote in its affairs:

Provided that in the case of an equality of votes the chairman shall have a second or casting vote.

(2) A co-operative society which is a member of another co-operative society may appoint one of its members not disqualified for such appointment under any rule or by-law to vote in the affairs of such other society.

61. Members not to exercise rights till due payment made.—No member of a co-operative society shall exercise the rights of a member until he has made such payment to the society in respect of membership or acquired such interest in the society as may be provided for in the rules or by-laws.

62. Members to furnish information as to their financial position and alienation of their immovable property.—(1) A full, true and accurate statement of his assets and liabilities shall be furnished—

(a) by an applicant for membership of a co-operative society with unlimited liability, together with his application ;

(b) by a member of a co-operative society with unlimited liability when required to do so by the Registrar or any person authorised by him by a general or special order or by the financing bank ; and

(c) by a member of any other society, together with any application for a loan or for acceptance as a surety.

(2) A member of a co-operative society shall, before the completion of each such transaction, furnish to the society of which he is a member full, true and accurate information regarding any sale, mortgage or transfer in any form whatsoever of his immovable property or any portion or share thereof and regarding any debt proposed to be incurred on the security of such property.

63. Loans to be used for the object for which advanced.—A loan advanced by a co-operative society to a member thereof shall be utilised by him for the purpose for which it was advanced and, if not so utilised, shall be refunded by him immediately on its recall, in the prescribed manner, by the society.

64. Share or interest not liable to attachment.—Notwithstanding anything contained in any law for the time being in force, but subject to the provisions of section 50, the share or interest of a member in the capital of a co-operative society or in any provident fund established under section 59 shall not be liable to attachment or sale under any decree or order of a court in respect of any debt or liability incurred by such member, and neither the Official Assignee under the Presidency-towns Insolvency Act, 1909, nor a receiver under the Provincial Insolvency Act, 1920, shall be entitled to or have any claim on such share or interest.

65. Liability of members.—The members of a co-operative society shall, upon the winding up of the society, be jointly and severally liable to contribute towards any deficiency in the assets of the society—

(a) in the case of a society with unlimited liability, without limit ; and

(b) in the case of a society with limited liability, subject to such limitation of amount as may be provided in the by-laws.

66. Liability of past member and of estate of deceased member.—The liability of a past member and of the estate of a deceased member for the debts of a co-operative society as they existed at the date of his ceasing to be a member or of his death, as the case may be, shall continue for a period of two years from the said date.

67. Restrictions on interest of members of society with limited liability and share capital.—Where the liability of a member of a co-operative society is limited by shares, no member other than another co-operative society shall—

(a) hold more than such portion of the share capital of the society as, subject to a maximum of one-fifth, may be prescribed ; or

(b) have or claim any interest in the shares of the society exceeding one thousand rupees.

68. Restrictions on transfer of share or interest.—(1) The transfer or charge of the share or interest of a member in the capital of a co-operative society shall be subject to the provisions of this Act and to such conditions as to maximum holding as may be prescribed and, in the case of a member of a society with limited liability, shall require the approval of the society.

(2) No transfer or charge of his share or interest by a member of a society registered with unlimited liability shall be valid unless—

(a) he has held such share or interest (save in the case of transfers under any of the provisions of sections 69, 70, 71, 73 or 74) for not less than one year; and

(b) the transferee or mortgagee is either a member of such society or a person whose application for membership has been accepted or another co-operative society.

69. Nomination of transferee.—If the by-laws of a co-operative society so permit, any member of the society may, in accordance with the rules, nominate a person in whose favour the society shall dispose of the share or interest of such member on his death.

70. Disposal of deceased member's share or interest.—(1) When any member of a co-operative society dies, his share and interest in the society shall, subject to the provisions of sections 50 and 68 and to the further provisions of this section, be transferred—

(a) to the person, if any, nominated in accordance with the provisions of section 69; or

(b) if there be no such nominee or, if the existence and residence of such nominee cannot be ascertained by the managing committee, or if for any other cause such transfer cannot be made without unreasonable delay, to the person who (subject to the production by him of probate, letters of administration or succession certificate) appears to the managing committee to be entitled in accordance with the rules to possession of such share or interest as part of the estate of the deceased member;

(c) on the application of the person referred to in clause (b) within three months of the death of the deceased member, to any person specified in the application.

(2) If the share or interest of the deceased cannot be legally transferred in accordance with the provisions of sub-section (1), or if the person to whom the share or interest is payable under that sub-section within one year of the death of the deceased member claims payment of the value of such share or interest, or if the society in accordance with the rules and by-laws decides to proceed according to this sub-section—

(a) the share shall be transferred to some other person qualified in accordance with the provisions of section 68 to be the transferee of the share, on receipt from such person of the value thereof; and

(b) the value of the share or interest of the deceased member, determined in accordance with the rules shall be paid to the person nominated in accordance with the provisions of section 69 or to the person appearing to be entitled to possession of such share or interest as aforesaid, after deducting the amount of any sum payable under this Act to the society from the estate of the deceased member.

71. Disposal of share or interest of expelled, resigned or insane member.—When a member of a co-operative society is expelled or resigns in accordance with the rules or the by-laws, or when a member becomes insane—

(a) his share or interest shall be transferred to another person qualified to be the transferee in accordance with the provisions of section 68, and the value thereof determined in accordance with the rules shall be paid to such member or, if he is insane, to any person appointed to manage his properties under the Indian Lunacy Act, 1912; or

(b) in the case of a society with unlimited liability, if the by-laws so provide, the value of his share or interest determined in accordance with the rules shall be paid to him or, if he is insane, to any person appointed to manage his properties under the Indian Lunacy Act, 1912.

72. Restriction on transfer of possession of and interest in land held under a co-operative society.—Notwithstanding anything contained elsewhere in this Act or in any other law for the time being in force—

(1) a member of a co-operative society, the object of which is the reclamation and colonization of land or the acquisition of land and the leasing thereof to its members, shall not be entitled to transfer his possession of or interest in any land held by him under the society, except to the society or, with the previous approval of the society given in accordance with its bye-laws, to a member thereof;

(2) when the membership of a member of a co-operative society specified in clause (1) terminates by reason of his death, expulsion, resignation or insanity or any other cause, his possession of and interest in any land held by him under the society shall vest in his heir, executor or administrator or in the person, if any, nominated by him under section 69, if such heir, executor, administrator or person is willing to become a member of the society and is eligible for membership in accordance with the bye-laws of the society;

(3) if the heir, executor, administrator or person referred to in clause (2) does not become a member of the co-operative society, the possession of and interest in the land of the deceased, expelled, resigned or insane member shall vest in the society, which shall pay to such heir, executor, administrator or person, as the case may be, a sum equivalent to the value of the land as determined in accordance with the rules; and

(4) no land held under a co-operative society specified in clause (1) by a member thereof, or vested under clause (2) in the heir, executor or administrator of such member or in any person nominated by such member under section 69 shall be attachable in any suit or proceeding for the recovery of any debt other than a debt due to the society or to a member thereof.

73. Disposal of share or interest of a member of a wound up co-operative society.—When an order is passed for the winding up of a co-operative society which is a member of a co-operative society with limited liability, the share or interest of the society being wound up shall, subject to the provisions of section 68, be transferred to another person or co-operative society upon receipt from such person or society of the value, determined in accordance with the rules, of such share or interest; and upon the application of the liquidator the value thereof thus received shall be paid to him.

74. Disposal of moneys due to a deceased, expelled, resigned or insane member.—All sums calculated in accordance with the rules to be due from a co-operative society to a member, other than payments in respect of the share or interest of such member to the society, shall, subject to the provisions of section 50, be paid—

(a) in the case of a deceased member, to the person to whom the share and interest are transferred or their value is paid in accordance with the provisions of section 70;

(b) in the case of a member who has been expelled or has resigned from a society, to him; and

(c) in the case of a member who has become insane, to any person appointed to manage his properties under the Indian Lunacy Act, 1912.

75. Bar to certain claims.—All payments and transfers made by a co-operative society in accordance with the provisions of sections 70 to 74 inclusive shall be valid and effectual against any demand made upon the society by any other person.

CHAPTER VIII.

AUDIT, INSPECTION AND INQUIRY.

76 Registrar to be responsible for audit.—(1) The accounts of every co-operative society shall, at least once in each year and by such date as may be prescribed, be audited by the Registrar or by an audit officer authorised by him in this behalf by general or special order in writing.

(2) In respect of every audit of its accounts a co-operative society shall, in the manner prescribed, pay such audit fee as may be prescribed.

77. Power to the Registrar to have the accounts written up.—If at the time of audit the accounts of a co-operative society are not complete, the Registrar or, with his approval, the audit officer may cause the accounts to be written up at the expense of the society.

78. Nature of audit.—(1) The audit under section 76 shall include—

- (a) a verification of the cash balances and securities ;
- (b) a verification of the balance at the credit of the depositors and creditors and of the amounts due from the debtors of the society ;
- (c) an examination of overdue debts, if any ;
- (d) a valuation of the assets and liabilities of the society ;
- (e) an examination of the transactions, including the monetary transactions of the society within such limits as may be prescribed ;
- (f) an examination of the statement of accounts to be prepared by the managing committee in such form as may be prescribed ;
- (g) a certification of the realised profits ; and
- (h) any other matter that may be prescribed.

(2) The statement of accounts thus audited, together with the modifications, if any, made therein by the Registrar, shall be final and binding on the co-operative society.

79. Audit officer's report.—The audit officer shall, by such date as may be prescribed, submit to the co-operative society and to the Registrar, together with the statement of accounts audited, an audit report including a statement of—

- (a) every transaction which appears to him to be contrary to law or to the rules or by-laws ;
- (b) every sum which ought to have been but has not been brought into account ;
- (c) the amount of any deficiency or loss which appears to have resulted from any negligence or misconduct or to require further investigation ;
- (d) any money or property belonging to the society which appears to have been misappropriated or fraudulently retained by any person ;
- (e) any of the assets which appears to him to be bad or doubtful ; and
- (f) any other matter prescribed.

80. Rectification of defects.—A co-operative society shall be afforded by the Registrar an opportunity of explaining any defects or irregularities pointed out by the audit officer, and thereafter the society shall, within such time and in such manner as the Registrar may direct, remedy

such defects and irregularities and report to the Registrar the action taken by it thereon.

81. Constitution of an authority to supervise working of co-operative societies.—(1) The Provincial Government may constitute an authority to appoint and control in such manner as may be prescribed, the staff required for the supervision of co-operative societies, other than such staff as may be appointed by the Provincial Government for the purposes of such supervision, and such authority shall be composed of such number of persons and shall perform such other functions as may be prescribed :

Provided that, of the persons composing such authority, three-fourths shall be elected by co-operative societies in such manner as may be prescribed, and one-fourth shall be nominated by the Registrar in such manner as may be prescribed.

(2) A co-operative society shall be liable to pay, to an authority constituted under sub-section (1), such fee, in such manner, as may be prescribed.

82. Inspection by Registrar or financing bank.—(1) Every co-operative society shall be liable at any time to inspection—

(a) by the Registrar or any person authorised by him in this behalf by general or special order ; and

(b) by the financing bank, if any, of which it is a member.

(2) An inspection under this section by a financing bank shall be made by an officer of the bank or by a member of its paid staff certified by the Registrar in accordance with the rules as competent to conduct such an inspection.

(3) The result of an inspection under this section shall be communicated to the society and to the financing bank, if any, of which it is a member and, when the inspection is made by a financing bank, to the Registrar if so required by him.

83. Inspection of books of an indebted co-operative society—(1) Subject to the provisions of sub-section (2), on the application of a creditor of a co-operative society, an inspection shall be made of the books of the society by the Registrar or by a person authorized by him in this behalf by general or special order in writing.

(2) No such inspection shall be made unless—

(a) the Registrar, after giving the society an opportunity of being heard, is satisfied that the alleged debt is a sum then due, and that the creditor has demanded payment thereof and has not received satisfaction within a reasonable time ; and

(b) the creditor deposits with the Registrar such sum as security for the costs of the inspection as the Registrar may direct.

(3) The Registrar shall communicate the result of any inspection under this section to the creditor, to the society and to the financing bank, if any, of which the society is a member.

84. Inquiry by Registrar.—(1) The Registrar may, at any time, of his own motion or at the request of the District Magistrate, hold, by himself or by a person authorised by him by order in writing, an inquiry into the constitution, working and financial condition of a co-operative society,

(2) Such an inquiry shall be held on the application of—

(a) the financing bank, if any, of which the society is a member ;

(b) a majority of the members of the managing committee of the society ;

(c) one-third of the members of the society, each of whom has been a member of the society for not less than twelve months immediately preceding the date of the application and shall have deposited such security for costs, if any, as the Registrar may direct ;

(d) creditors representing not less than one half of the borrowed capital of the society, who shall have deposited such security for costs, if any, as the Registrar may direct :

Provided that, in the case of any society having more than two thousand five hundred members, an application under clause (c) may be presented by delegates elected in the prescribed manner.

(3) The Registrar shall communicate the result of any inquiry under this section to the society, to the financing bank, if any, of which the society is a member, and to the District Magistrate or the creditors, as the case may be, who applied for the inquiry.

85. Costs of inspection or inquiry.—(1) The Registrar may, after giving the parties an opportunity of being heard and by an order in writing stating the reasons therefor, apportion the costs of an inspection made under section 83 or of an inquiry held under section 84 or such portion of the costs as he thinks fit, between the co-operative society, the members thereof or the financing bank or the creditor or creditors applying for such inspection or inquiry, as the case may be, and the officers, former officers, members and past members of the society.

(2) No expenditure from the funds of any co-operative society shall be incurred for the purpose of defraying any costs in support of any appeal preferred by any person other than the society against an order under sub-section (1).

CHAPTER IX.

SETTLEMENT OF DISPUTES

86. Disputes to be referred to Registrar.—Any dispute touching the business of a co-operative society (other than a dispute regarding disciplinary action taken by a society or its managing committee against a paid servant of the society) or of the liquidator of a society shall be referred to the Registrar if the parties thereto are among the following, namely :—

(a) the society, its managing committee, any past or present officer, agent or servant or the liquidator of the society ; or

(b) a member, past member or person claiming through a member, past member or deceased member of the society ; or

(c) a surety of a member, past member or deceased member of the society, whether such surety is or is not a member of the society ; or

(d) any other co-operative society or the liquidator of such society.

87. Settlement of disputes.—(1) On receipt of a reference under section 86 the Registrar shall subject to the rules—

(a) decide the dispute himself ; or

(b) transfer it for disposal to any person authorised by the Provincial Government to exercise the powers of the Registrar in this behalf ; or

(c) refer it for disposal to one or more arbitrators to be appointed by the Registrar.

(2) Subject to the rules, the Registrar may withdraw any reference transferred or referred under sub-section (1) and may deal with it himself in the manner provided in such rules.

88. Force and effect of certain awards.—Where a dispute involves property pledged as collateral security, the person deciding the dispute may issue an award, which shall have the same force and effect as a final mortgage decree of a Civil Court having jurisdiction to make such a decree.

CHAPTER X.

WINDING UP AND DISSOLUTION OF CO-OPERATIVE SOCIETIES.

89. Order for the winding up of a co-operative society—(1) The Registrar may, and if the rules in any case so prescribe shall, by an order in writing, direct that a co-operative society shall be wound up if—

(a) after an inspection has been made under section 82 or section 83 or an inquiry has been held under section 84 ; or

(b) on an application made upon a resolution carried by three-fourths of the members of the society present at a special general meeting called for the purpose ; or

(c) on his own motion in the case of a society which—

(i) has not commenced working ; or

(ii) has ceased working ; or

(iii) has share capital or members' deposits not exceeding five hundred rupees ; or

(iv) has ceased to comply with any condition as to registration in this Act or in the rules or by-laws, he is of the opinion that the society ought to be wound up.

(3) A copy of such order shall be communicated, in the prescribed manner, to the society and to the financing bank, if any, of which the society is a member.

(3) The order shall take effect—

(a) where no appeal is preferred under section 134, on the expiry of the time allowed for preferring an appeal ; or

(b) where an appeal is preferred, upon rejection of the appeal by the appellate authority.

90. Appointment of a liquidator.—When an order is passed under section 89 for the winding up of a co-operative society, the Registrar may, in accordance with the rules, appoint a person to be liquidator of the society and may remove such person and appoint another in his place.

91. Powers of a liquidator.—(1) Notwithstanding anything contained in section 89 relating to the date on which an order for winding up a co-operative society shall take effect, a liquidator appointed under section 90 shall have power from the date of his appointment to take immediate possession of all assets, properties, effects and actionable claims of the society or to which the society is entitled and of all books, records and other documents pertaining to the business of the society.

(2) From the date on which the order directing the winding up of the society takes effect the liquidator shall, subject to the rules and under the general direction and control of the Registrar, have power, so far as is necessary for the winding up of the society, on behalf of the society to carry on the business thereof and to do all acts and execute all documents necessary to such winding up, and in particular shall exercise such of the following powers as the Registrar may from time to time direct, namely,—

(a) to institute and defend suits and other legal proceedings ;

(b) to make any compromise or arrangement with any person between whom and the society there exists any dispute and to refer any such dispute to arbitration ;

(c) to determine the debts due to the society by a member, past member or the estate, nominees, heirs or legal representatives of a deceased member;

(d) to calculate the costs of liquidation and to determine by what persons and in what proportions they are to be borne;

(e) to determine from time to time the contributions, including the items mentioned in clauses (c) and (d), to be made to the assets of the society by the members, past members or estates, nominees, heirs and legal representatives of deceased members or by the past or present officers of the society;

(f) to investigate all claims against the society and, subject to the provisions of this Act, to decide questions of priority arising between claimants;

(g) to pay claims against the society (including interest up to the date of the order for the winding up thereof) according to their priority, in full or rateably as the assets of the society permit;

(h) to give such directions as appear to him to be necessary in regard to the realisation, collection and distribution of the assets of the society; and

(i) after consulting the members of the society, to dispose of the surplus, if any, remaining after paying the claims against the society.

92. Priority of contributions assessed by liquidator.—Notwithstanding anything contained in the Presidency-towns Insolvency Act, 1909, and the Provincial Insolvency Act, 1920, the contribution assessed by a liquidator shall rank next to debts due to the Crown or to any local authority in order of priority in insolvency proceedings.

93. Liquidator to deposit the books and submit a final report.—When the affairs of a co-operative society have been wound up, the liquidator shall deposit the records of the society in the prescribed manner and shall make a report to the Registrar.

94. Power of Registrar to cancel order of winding up or of registration of a co-operative society.—(1) The Registrar may cancel an order for the winding up of a co-operative society in any case where, in his opinion, the society should continue to exist.

(2) In any other case the Registrar shall, after considering the report of the liquidator, if any, order the registration of the society to be cancelled.

CHAPTER XI.

SPECIAL PROVISIONS FOR CO-OPERATIVE LAND MORTGAGE BANKS.

95. Right of co-operative land mortgage bank to pay prior debts of mortgagor.—(1) When a mortgage is executed in favour of a co-operative land mortgage bank for payment of a prior debt or part thereof of the mortgagor, the bank shall, notwithstanding the provisions of sections 83 and 84 of the Transfer of Property Act, 1882, by issuing notice in writing in the prescribed manner require any person to whom any such debt is due to receive payment of such debt or part thereof from the bank within such period as may be specified in the notice.

(2) The person on whom such notice is served shall be bound to receive payment of the amount offered by the bank; but where there is a disagreement between the mortgagor and such person as regards the amount of the debt, or where the bank tenders less than the agreed amount of the debt, the receipt of the sum offered by the bank shall not prejudice the right, if any; of such person to recover the balance claimed by him.

(3) If any person fails to accept such notice or to receive such payment, such debt or part thereof, as the case may be, shall cease to carry interest from the expiry of the period specified in the notice.

96. Restriction on mortgagor's transfer of or charge on equity of redemption.—Notwithstanding anything contained in any other law for the time being in force—

(1) the mortgagor of property mortgaged to a co-operative land mortgage bank shall not be entitled, after the execution of the mortgage and without the concurrence of the bank,—

(a) to transfer or mortgage his equity of redemption, or

(b) to create a charge upon such property for a period exceeding five years ;

(2) the co-operative land mortgage bank shall not be entitled to give its concurrence under clause (1) without the previous sanction of the central co-operative land mortgage bank or the financing bank to which any sum is payable by it ; and

(3) the central co-operative land mortgage bank or the financing bank shall, if it accords its sanction under clause (2), send an intimation thereof to the Trustee, if any, appointed under section 34.

97. Mortgage not to be questioned on insolvency of mortgagor.—

Notwithstanding anything contained in the Presidency-towns Insolvency Act, 1909, or the Provincial Insolvency Act, 1920, a mortgage executed in favour of a co-operative land mortgage bank shall not be called in question on the ground that it was not executed in good faith for valuable consideration, or on the ground that it was executed in order to give the bank a preference over the other creditors of the mortgagor.

98. Priority of mortgage over claims arising under Act XIX of 1883.—A mortgage executed in favour of a co-operative land mortgage bank after the commencement of this Act shall have priority over any claim of the Provincial Government arising from a loan under the Land Improvement Loans Act, 1883, granted after the execution of the mortgage.

99. Power to distrain.—(1) If any sum due as an instalment or part of an instalment payable under a mortgage in favour of a co-operative land mortgage bank has remained unpaid for more than one month from the date on which it fell due, the bank may, in addition to any other remedy available to it, apply to the Registrar for the recovery of such sum by distraint and sale of not more than half the produce of the mortgaged land, including the standing crops thereon.

(2) Upon receipt of such application, and notwithstanding anything contained in the Transfer of Property Act, 1882, the Registrar may, subject to the provisions of this Act and the rules, take such action as is necessary to distrain and sell such produce.

(3) No distraint shall be made under this section after the expiry of twelve months from the date on which the instalment fell due.

100. Distribution of proceeds of sale or distraint.—The proceeds of any distraint and sale under section 99 shall be applied as follows :—

First, there shall be paid to the co-operative land mortgage bank at the prescribed rate—

(a) the costs of the sale ; and

(b) the other expenses incurred on account of the distraint ;

Secondly, there shall be paid to the bank the amount for which the distraint was made and there shall be given to the person whose property has been sold a receipt for the amount so paid ; and

Thirdly, the residue, if any, thereafter remaining shall be delivered to the person whose property has been sold.

101. Power to bring mortgaged property to sale without the intervention of the Court.—Notwithstanding anything contained in any other law for the time being in force, where a power of sale without the intervention of the Court is expressly conferred on a co-operative land mortgage bank by a mortgage deed in favour of the bank, if any instalment under such mortgage is not paid in full on the date on which it falls due, the managing committee of the bank shall, in addition to any other remedy available to it, have the power, subject to the provisions of this Act and the rules, to bring the mortgaged property to sale without the intervention of the Court.

102. Appointment of Sale Officer.—The Registrar may, subject to the rules, appoint a Sale Officer for the purpose of conducting any sale under the provisions of this Chapter.

103. Notice requiring payment from persons interested.—A co-operative land mortgage bank in the exercise of the powers conferred by section 101 shall, in the prescribed manner, and in the form of a written demand for the payment of the amount due to the bank, issue a notice upon—

- (a) the mortgagor;
- (b) any person who has any interest in or charge upon the property mortgaged or in or upon the right to redeem the said property and who has previously notified the bank in writing of such interest or charge;
- (c) any surety for the payment of the mortgage debt or any part thereof; and
- (d) any creditor of the mortgagor who has in a suit for the administration of his estate obtained a decree for sale of the mortgaged property.

104. Application for sale and method of sale.—Upon the expiry of three months from the date of service of a notice under section 103, if the sum due under the mortgage has not been paid, the bank may, after considering any objection made within that period by any person entitled to such notice, apply to the Sale Officer appointed under section 102 to sell the mortgaged property or any part thereof and such officer shall, in the prescribed manner, proceed to sell such property by public auction and report the result thereof to the bank.

105. Application to set aside a sale on deposit.—When property mortgaged to a co-operative land mortgage bank has been sold under the provisions of this Chapter, the mortgagor or any person entitled to a notice under section 103 may within the prescribed period apply to the managing committee of the bank to have the sale set aside upon his depositing with the bank—

- (a) for payment to the bank, the amount specified in the proclamation of sale together with the subsequent interest and the costs, if any, incurred by the bank in bringing the property to sale; and
- (b) for payment to the purchaser as compensation, a sum equal to five per centum of the purchase money.

106. Setting aside and confirmation of sales.—(1) After the expiry of the period prescribed for making an application to have the sale set aside, the bank shall, in the prescribed manner, submit to the Registrar a report setting forth the proceedings of the Sale Officer, the result of the sale and details of any application made under section 105.

- (2) Upon receipt of such report the Registrar shall—

(a) if an application has been made under section 105 and if the amounts specified in that section have been deposited by the applicant, make an order setting aside the sale and requiring the bank to pay to the purchaser the sum deposited under clause (b) of section 105; and

(b) if no application has been made under section 105 or an application has been made but the amount specified in that section has not been deposited by the applicant, or an application has been disallowed by the bank, make an order confirming the sale.

(3) Where an order confirming a sale is made under sub-section (2), the sale shall thereupon become absolute.

107. Distribution of sale-proceeds and bar to certain claims.—(1) The Registrar shall, in making a sale absolute by an order under section 106, direct that the sale-proceeds shall be applied as follows—

First, there shall be paid to the co-operative land mortgage bank, at the prescribed rate, all costs, charges and expenses properly incurred by the bank or the Sale Officer incidental to the sale of any attempted sale;

Secondly, there shall be paid to the bank all interest due on account of the mortgage in consequence whereof the mortgaged property was sold;

Thirdly, there shall be paid to the bank all sums due as principal on account of the mortgage; and

Fourthly, the residue, if any, thereafter remaining shall be paid to the mortgagor.

(2) All payments of such residue made in accordance with sub-section (1) shall be valid and effectual against any demand relating thereto made upon the bank by the mortgagor or by any other person.

108. Certificate to be issued to purchaser and to be entered by the registering officer.—(1) Where a sale of mortgaged property under this Chapter has become absolute, the Registrar shall grant to the purchaser a certificate in the prescribed form specifying the property sold and the name of the person who, at the time of the sale, is declared to be the purchaser, and such certificate shall bear the date of the day on which the sale becomes absolute.

(2) Notwithstanding anything contained in the Indian Registration Act, 1908, the Registrar shall send a copy of every certificate granted under sub-section (1) to the registering officer appointed under that Act within the local limits of whose jurisdiction the whole or any part of the immovable property comprised in such certificate is situated, and such registering officer shall enter the contents of such copy in his register of non-testamentary documents relating to immoveable property.

(3) The purchaser of any mortgaged property sold under this Chapter shall supply to the Registrar notices in the prescribed form for service on the landlord of such property together with such fee as may be prescribed for the service of such notices and the landlord's fee, if any, required under the Bengal Tenancy Act, 1885; and the Registrar shall thereupon, in the prescribed manner, cause such notices to be served on, and such landlord's fee to be transmitted to, the landlord named in such notices.

109. Delivery of property to purchaser.—Where a certificate has been issued under section 108, the Court shall, on the application of the purchaser, order delivery of possession to be made to him in the prescribed manner.

Explanation.—In this section "Court" means the Civil Court which would have jurisdiction to entertain a suit to enforce the mortgage and within the limits of whose jurisdiction the property sold is situated.

110. Right of co-operative land mortgage bank or central co-operative land mortgage bank to purchase at a sale under this Chapter.—It shall be competent to a co-operative land mortgage bank or central co-operative land mortgage bank to purchase the mortgaged property sold under this Chapter, but the property so purchased shall be disposed of by such bank by sale within the period prescribed or, where a Trustee has been appointed, within such period as he may specify in accordance with the rules.

111. Title of purchaser not to be questioned.—When a sale has been made in exercise of a power to sell under section 101 and has been confirmed under clause (b) of sub-section (2) of section 106, the title of the purchaser shall not be questioned in any Court by the mortgagor or his successor in interest.

112. Power to appoint a receiver.—(1) In circumstances in which the power of sale under section 101 might be exercised, the Registrar may, subject to the provisions of sub-section (2), and in accordance with the rules—

(a) on the application of a co-operative land mortgage bank, appoint a receiver of the produce and income of the mortgaged property;

(b) on the application of the mortgagor for due cause shown, remove a receiver so appointed; and

(c) fill up a vacancy in the office of receiver.

(2) The Registrar shall not appoint a receiver where the mortgaged property is already in the possession of a receiver appointed by a Court.

113. Expenses, remuneration and duties of a receiver.—(1) A receiver appointed under section 112 shall be entitled, in accordance with the rules, to receive such expenses of management and remuneration, if any, as may be determined by the Registrar in consultation with the co-operative land mortgage bank.

(2) The provisions of sub-section (8) of section 69A of the Transfer of Property Act, 1882, shall apply to a receiver appointed under section 112.

114. Powers of co-operative land mortgage bank if the mortgaged property is destroyed or the security is rendered insufficient.—Where any property mortgaged to a co-operative land mortgage bank is wholly or partially destroyed or the security is rendered insufficient and the mortgagor, after reasonable opportunity given by the bank to provide such further security as will render the whole security sufficient to repay such portion of the loan as may be determined by the bank, has failed so to do, the whole of the loan shall be deemed to fall due at once and the bank shall, subject to the rules, be entitled to take action against the mortgagor for the recovery thereof under this Chapter.

Explanation.—A security shall be deemed to be insufficient within the meaning of this section if the value of the mortgaged property does not exceed the amount for the time being due on the mortgage by such proportion as may be specified in the rules or by-laws.

115. Power of the Trustee and a central co-operative land mortgage bank to direct or take certain action.—(1) A Trustee and, in the case of a member society, a central co-operative land mortgage bank may, in accordance with rules, direct a co-operative land mortgage bank to take action against a defaulter under section 99, section 101 or section 114 and, if the bank neglects or fails to do so, may take such action.

(2) Where such action is taken by a Trustee or a central co-operative land mortgage bank, the provisions of this Act and of any rules or by-laws shall apply in respect thereto as if all references to the co-operative land mortgage bank were references to the Trustee or the central co-operative land mortgage bank, as the case may be.

116. Officers of co-operative land mortgage and central co-operative land mortgage banks and Sale Officers not to bid at sales.—At any sale of movable or immovable property held under the provisions of this Chapter no officer of a co-operative land mortgage bank or central co-operative land mortgage bank (except on behalf of the bank of which he is an officer), and no Sale Officer or other person having any duty to perform in connection with such sale, shall either directly or indirectly bid for or acquire or attempt to acquire any interest in such property.

117. Notice of sale under Chapter XIV of Act VIII of 1885.—Notwithstanding anything contained in Chapter XIV of the Bengal Tenancy Act, 1885, relating to the sale of tenures and holdings in execution of decrees for arrears of rent, no such sale held under the provisions of that Chapter shall affect the title or interest of any co-operative land mortgage bank which has, in respect of such tenure or holding, a registered and notified encumbrance within the meaning of clause (b) of section 161 of the said Act, unless a concise statement of the order of attachment and proclamation of sale, has, in the prescribed manner and at the time of the issue of such proclamation, been sent by the Court by registered post to such co-operative land mortgage bank.

118. Notice of sale, and deposit for protection from sale, under Bengal Regulation VIII of 1819.—Notwithstanding anything contained in the Bengal Patni Taluks Regulation, 1819 (hereafter in this section referred to as the said Regulation)—

(1) when a mortgage is executed in favour of a co-operative land mortgage bank in respect of any patni taluk to which the said Regulation applies or any tenure or holding comprised within such patni taluk, the co-operative land mortgage bank shall—

(a) in such manner as may be prescribed, notify the Zemindar of the execution of such mortgage,

(b) for the purpose of receiving notice of the sale of such patni taluk or tenure as the case may be, pay to the Zemindar such fee in such manner as may be prescribed, and

(c) on compliance with the provisions of sub-clauses (a) and (b), be deemed to be a notified mortgagee in respect of such patni taluk or tenure;

(2) before the sale is held of any such patni taluk or tenure under the said Regulation, the Zemindar shall, by registered post, send a notice thereof to every co-operative land mortgage bank which is, in respect of such patni taluk or tenure, a notified mortgagee within the meaning of sub-clause (c) of clause (1); and

(3) any co-operative land mortgage bank which is a notified mortgagee within the meaning of sub-clause (c) of clause (1) shall be entitled to stay such sale by depositing with the Collector the balance of the arrears of rent due in respect of such patni taluk or tenure.

119. Notice of sale, and deposit for protection from sale under Act XI of 1859 or Act VII of 1868.—Notwithstanding anything contained in the Bengal Land-revenue Sales Act, 1859, or the Bengal Land-revenue Sales Act, 1868 (hereafter in this section referred to respectively as the said Act of 1859 and the said Act of 1868)—

(1) when a mortgage is executed in favour of a co-operative land mortgage bank in respect of any revenue-paying estate to which the said Act of 1859 applies or any tenure or holding comprised within such estate, or any revenue-paying tenure to which the said Act of 1868 applies or any tenure or holding comprised within such tenure, the co-operative land mortgage bank shall—

(a) in such manner as may be prescribed, notify the Collector of the execution of such mortgage,

(b) for the purpose of receiving notice of the sale of such estate or tenure as the case may be, pay to the Collector such fee in such manner as may be prescribed, and

(c) on compliance with the provisions of sub-clauses (a) and (b), be deemed to be a notified mortgagee in respect of such estate or tenure as the case may be;

(2) before the sale is held of any such estate under the said Act of 1859 or of any such tenure under the said Act of 1868, the Collector shall, by registered post, send a notice thereof to every co-operative land mortgage bank which is, in respect of such estate or tenure as the case may be, a notified mortgagee within the meaning of sub-clause (c) of clause (1); and

(3) any co-operative land mortgage bank which is a notified mortgagee within the meaning of sub-clause (c) of clause (1) shall be entitled to stay such sale by depositing with the Collector the balance of the arrears of land-revenue due in respect of such estate or tenure as the case may be.

120. Exemption from personal attendance for registration of certain instruments.—(1) Notwithstanding anything contained in the Indian Registration Act, 1908, it shall not be necessary for a Trustee or for any officer of a co-operative land mortgage bank or central co-operative land mortgage bank to appear in person or by agent at any registration office in any proceeding connected with the registration of any instrument executed by him in his official capacity or to sign as provided in section 58 of that Act.

(2) Where any instrument is so executed, the registering officer to whom such instrument is presented for registration may, if he thinks fit, refer to the Trustee or to such officer for any information respecting the same and on being satisfied of the execution thereof shall register the instrument.

121. Power of co-operative land mortgage bank to receive moneys, etc., notwithstanding assignment or transfer of mortgage deeds to a central co-operative land mortgage bank.—Notwithstanding any assignment or transfer of any mortgage by a co-operative land mortgage bank to a central co-operative land mortgage bank—

(a) all moneys due under the mortgage shall, in the absence of any specific direction to the contrary issued by the Registrar or a Trustee in accordance with the rules and communicated to the mortgagor, be payable to the co-operative land mortgage bank and such payment shall be as valid as if the mortgage had not been so assigned or transferred; and

(b) the co-operative land mortgage bank shall, in the absence of any such direction communicated to it, be entitled to sue on the mortgage or take any other proceeding for the recovery of the moneys due under the mortgage.

§ 22. Mortgages executed by members of Hindu joint families.—(1)

Where a mortgage executed in favour of a co-operative land mortgage bank, whether before or after the commencement of this Act, is called in question on the ground that it was executed by the manager of a joint Hindu family for a purpose not binding on the members thereof whether major or minor, the burden of proof shall, notwithstanding anything contained in any other law for the time being in force, rest upon the party which calls such mortgage in question.

(2) For the purpose of this section the following shall be regarded as purposes binding on the members of a joint Hindu family—

- (a) the improvement of agricultural land or of the methods of cultivation, and
- (b) the purchase of land.

Notes.

[Sections 95 to 122.]

In chapter XI special provisions are made to ensure satisfactory and successful working of Land Mortgage Banks. These Banks are empowered to require by a notice the creditors of a member to receive payment of their dues from the Bank, to realise the overdue instalments of a loan by distraint and sale of the produce of the mortgaged land including the standing crops thereon and to bring mortgaged property to sale on default of instalments without the intervention of the Court. In this connection the Registrar is empowered to appoint sale officers for the purposes of conducting sales and to appoint receivers when necessary. As the Government may guarantee the principal and the interest of the debentures to be floated for raising necessary capital for these Banks and advancing the same to the members at a very low rate of interest, the trustee and the financing Bank are empowered, in cases of default or when the mortgaged property is destroyed or the security is rendered insufficient to direct the Banks to take action against the members and in case of failure on the part of the Bank to comply with such directions, the trustee or the financing Bank are empowered to take necessary action themselves. Further, as a measure of safeguard against possible abuses, the officers of the Land Mortgage Banks and sale officers are debarred from taking part in the bid or to acquire any interest in properties mortgaged to a Bank. Provisions have also been made for protecting a mortgage from challenge on certain grounds in insolvency proceedings or by members of a joint Hindu family when the mortgage is executed by the manager. The mortgage is given priority in insolvency proceedings over other claims except Government revenue, wages and landlord's rent, etc.

CHAPTER XII.**ENFORCEMENT OF OBLIGATIONS AND RECOVERY OF SUMS DUE.**

123. Access to documents, etc.—The Registrar and, subject to any restrictions prescribed, an audit officer, arbitrator or any person conducting an inspection or inquiry under Chapter VIII, shall at all reasonable times have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of a co-operative society.

124. Power to enforce attendance of witness and production of documents.—The Registrar and, subject to any restrictions prescribed, an audit officer, arbitrator or liquidator, or any person conducting an inspection or inquiry under Chapter VIII, shall, in so far as is necessary for carrying out any of the purposes of this Act, have power to summon and enforce

the attendance of witnesses and parties concerned and to examine them upon oath and to compel the production of any books, accounts, documents, securities, cash and other properties by the same means and, so far as may be, in the same manner as provided in the Code of Civil Procedure, 1908.

125. Power to direct conditional attachment.—(1) Subject to the rules, the Registrar, if it appears to him that any person or co-operative society with intent to defeat or delay the execution of any order that may be passed under Chapters IX, X, XI or XII—

(a) is about to dispose of the whole or any part of his or its property; or

(b) is about to remove the whole or any part of his or its property from the local limits of the jurisdiction of the Registrar, may, unless such security is furnished as he may require, direct the conditional attachment of the said property or such part thereof as he thinks fit.

(2) Such attachment shall have the same force and effect as if it had been made by a Civil Court and shall continue in force until withdrawn or cancelled by the Registrar.

Notes.

There has been a growing tendency among the indebted members of Societies particularly of agricultural Societies to transfer their properties, movable or immovable in order to defeat the execution of award as soon as disputes under Rule 22 of the existing Government rules are filed against them. This clever move on the part of debtor-members has rendered the process of summary recovery by means of award of arbitrators more or less ineffective. Therefore, the powers for summary recovery are further supplemented by conferment of power on the arbitrator to direct conditional attachment of the property of the debtors.

126. Power to direct payment of dues.—Notwithstanding anything contained in Chapter IX, the Registrar or such other person as may be prescribed may, on his own motion or on the written requisition of a co-operative society or financing bank for the recovery of any loan due by a defaulting member, after due inquiry, make an award directing payment by such member of the amount found to be due.

Notes.

The importance of this clause cannot be over-estimated. One of the most serious defects in the working of the credit Societies which to a very large extent has contributed to the financial deterioration of these Societies, is that a few office-bearers have appropriated large loans which they are unable to repay. The Panchayat Board which is formed of themselves is inactive in taking stringent action against the defaulting members. They are generally unwilling to file disputes against such members. The good members of the Societies have no influence or power to bring the defaulters to book. It is thus essentially necessary both for the improvement of the societies as well as for protecting the interest of good members that some sort of summary power should be in the hands of the Registrar to realise the dues from the wilful defaulting members. There has been a persistent demand from Co-operative Societies for such provision. This provision will save a Society from liquidation as also the good members from penalty for the neglect of a few bad members.

127. Charge and surcharge.—(1) Where, as the result of an audit under section 76 or an inspection under section 82 or section 83, or an

inquiry under section 84 or a report made in the course of the winding up of a co-operative society, it appears to the Registrar that any past or present officer, has at any time after the commencement of this Act and within a period of four years prior to the date of such audit, inspection, inquiry or report, as the case may be—

(a) intentionally made or authorized any payment which is contrary to the provisions of this Act or to the rules or by-laws; or

(b) by reason of his culpable negligence in respect of any prescribed matter involved the society in any loss or deficiency; or

(c) failed to bring into account any sum which ought to have been brought into account; or

(d) misappropriated or fraudulently retained any property of the society;

the Registrar may inquire into the conduct of such officer.

(2) Upon such inquiry, after giving such officer an opportunity to be heard and, in the case of a payment made contrary to the provisions of this Act or the rules or by-laws, after affording such officer an opportunity to recover the amount of such payment from the payee and credit it to the funds of the society, the Registrar may, subject to the rules, by an order in writing require such officer to pay such sum to the assets of the society by way of compensation in respect of such payment or loss or sum, or to restore such property as the Registrar thinks fit, and to pay such sum as the Registrar may fix to meet the cost of the proceedings under this section.

(3) This section shall apply notwithstanding that such officer may by his act or omission have incurred criminal liability under this Act or any other law for the time being in force.

Notes.

This section provides for an imposition by the Registrar of a charge in respect of an item of expenditure disallowed as having been incurred contrary to the Act, Rules or by-laws or without sanction of a competent authority. Hitherto in the absence of a suitable provision in the Act or the rules it has not been possible to reimburse a Society for any loss or damage caused to it by any mischievous act of any person connected with the organisation or management of the Society. There have been several cases in which the Societies desired to file a dispute against the past committee of management of certain members thereof for loss of funds due to their negligence or misconduct. But it was held by competent legal opinion that no dispute for recovery of such loss could be filed under the existing rules. The section does not take away the privilege of the Society to sue any of its office-bearers for damage or loss but only provides for a summary procedure to compensate the Society for an illegal act of culpable negligence on the part of its office-bearers.

128. Penalty for certain misdemeanours.—Where it appears to the Registrar that any person has contravened the provisions of this Act, the rules or by-laws—

(a) by sitting or voting as a member of a managing committee, or voting in the affairs of a co-operative society as a representative of another society which is a member of such society, or exercising the rights of a member of a co-operative society, when such person was not entitled so to sit or vote or exercise such rights, as the case may be, or

(b) by employing a loan for a purpose different from that for which it was granted.

the Registrar may, subject to the rules and after affording such person an opportunity to be heard, by an order in writing direct him to pay to the assets of the society by way of penalty such sum as the Registrar thinks fit in respect of every such contravention.

129. Registrar's power to enforce performance of obligations.—Notwithstanding anything contained in this Act, where any co-operative society is required to take any action under this Act, the rules or the by-laws and such action is not taken—

(a) within the time provided in this Act, the rules or the by-laws; or

(b) where no time is so provided, within such time, having regard to the nature and extent of the action to be taken, as the Registrar may specify by a notice in writing,

the Registrar may call upon any officer of the society whom, in accordance with such principles as may be prescribed, he considers to be responsible for the carrying out of his directions and, after giving such officer an opportunity to be heard, may require him to pay to the assets of the society such sum not exceeding twenty-five rupees as the Registrar may think fit for each day until the Registrar's directions are carried out.

Notes.

(Sections 128 and 129).

In these sections provisions have been made to compel a person or a Society to comply with the provisions of the Act, Rules, and by-laws as also the directions of the Registrar in exercise of powers conferred on him under the Act, Rules, etc. The propriety of these provisions to carry out the purposes of the Act by an imposition of a penalty is self-evident. No law can be effective and complete without having penal provisions to enforce its administration. If for good management and sound development, the law makes certain provisions, it must, in order to make such provisions effective, insist on their specific performance through appropriate penalties.

130. Recovery of sums due.—Any sum payable to the Provincial Government or to a co-operative society or the authority constituted under section 81 in accordance with any order, decision or award under this Act shall be recoverable in the manner provided in the Third Schedule:

Provided that, notwithstanding anything contained in the Code of Civil Procedure, 1908, or in any other law for the time being in force, any sum payable in accordance with an award made under section 126 in respect of default in the payment of a loan, taken under section 51 or of any instalment of such loan, shall be recoverable—

(a) if the salary of the member exceeds thirty rupees *per mensem*, by the attachment of such salary to the extent of the instalment in respect of which default has been made or of half the difference between such salary and thirty rupees, whichever is less, and

(b) if the salary of the members does not exceed thirty rupees *per mensem*, by the attachment of such salary to the extent of the instalment in respect of which default has been made or of one anna in every rupee of such salary, whichever is less.

131. Acts of societies, etc., not to be invalidated by certain defects.—(1) No act of a co-operative society or managing committee or of any officer or liquidator done in good faith in pursuance of the business of the society shall be deemed to be invalid by reason only of some defect

subsequently discovered in the organisation of the society or in the constitution of the managing committee or in the appointment or election of the officer or liquidator or on the ground that such officer or liquidator was disqualified for his appointment.

(2) No act done in good faith by any person appointed under this Act shall be invalid merely by reason of the fact that his appointment has been cancelled by or in consequence of any order subsequently passed under this Act.

(3) The Registrar shall decide whether any act was done in good faith in pursuance of the business of a society.

CHAPTER XIII.

JURISDICTION, APPEAL AND REVISION.

132. Indemnity.—No suit, prosecution or legal proceedings whatever shall lie against the Registrar or any person subordinate to him or acting on his authority or against a Trustee in respect of anything in good faith done or purporting to be done under this Act.

133. Bar to jurisdiction of Courts.—(1) Save as provided in this Act, no Civil or Revenue Court shall have any jurisdiction in respect of —

(a) the registration of a co-operative society or its by-laws or of an amendment of its by-laws; or

(b) the dissolution of a managing committee and the management of the society on dissolution thereof; or

(c) any dispute required under section 86 to be referred to the Registrar; or

(d) any matter concerned with the winding up and dissolution of a co-operative society.

(2) While a co-operative society is being wound up no suit or other legal proceeding relating to the business of such society shall be proceeded with or instituted against the liquidator as such or against the society or any member thereof except by leave of the Registrar and subject to such terms as he may impose.

(3) Save as provided in this Act, no order, decision or award under this Act shall be liable to be challenged, set aside, modified, revised or declared void in any Court on any ground whatsoever except want of jurisdiction.

Notes.

Liquidation proceedings are already excluded from the operation of the Civil Courts under the existing Act. This section adds a bar against the jurisdiction of Civil or Revenue Courts in matters relating to disputes, registration of a Society or its by-laws and the dissolution of a Managing Committee and its administration by an executive officer. This will protect all proceedings under this Act from interference by such Courts by means of injunctions issued at the instance of unreasonable minorities or individuals and will give finality to the decisions in such proceedings.

134. Appeal.—(1) An appeal shall lie from an order shown in column 2 of the Fourth Schedule to the authority shown in column 3 and within the period shown in column 4 thereof.

(2) Save as provided in this Act, no appeal shall lie against any order, decision or award passed in accordance with this Act, and every such order, decision or award shall be final.

135. Review and revision.—(1) The Provincial Government may call for and examine the record of any inquiry or inspection held or made under this Act or the proceedings of the Registrar or any person subordinate to him or acting on his authority, and may pass thereon such orders as it thinks fit.

(2) The Registrar may at any time—

(a) revise any order passed by himself; or

(b) call for and examine the record of any inquiry or inspection held or made under this Act or the proceedings of any person subordinate to him or acting on his authority, and if it appears to him that any decision, order or award or any proceedings so called for should for any reason be modified, annulled or reversed, may pass such orders thereon as he thinks fit:

Provided that, before any order is made under clause (a) or clause (b), the Registrar shall afford to any person, likely to be affected adversely by such order, an opportunity of being heard.

Notes.

(Sections 134 and 135.)

Under these sections provisions have been made for appeals by aggrieved parties as also protection has been given to the Societies and their members by provision for review or revision from adverse decisions or orders of the Registrar or any subordinate officers taken or passed in the exercise of any statutory functions delegated to them.

CHAPTER XIV.

OFFENCES, PENALTIES AND PROCEDURE.

136. Offences and Penalties.—Any person mentioned in column 3 of the Fifth Schedule who is guilty of an offence shown in column 2 thereof shall, notwithstanding anything contained in this Act or any other law for the time being in force, be liable on conviction to the penalty shown in column 4 thereof.

137. Cognisance of offences.—(1) No court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act.

(2) For the purposes of the Code of Criminal Procedure, 1898, every offence under this Act shall be deemed to be non-cognisable.

(3) No prosecution shall be instituted under this Act without the previous sanction of the Registrar.

Notes.

(Sections 136 and 137).

The offences have been made non-cognisable and triable only by a first class Magistrate, while an adequate safeguard against irresponsible prosecutions has been provided by requiring the permission of the Registrar before launching a prosecution. The existence of the penal sections will stimulate business methods in the minds of co-operators and the provisions are based upon the English Industrial and Provident Societies Act, and also other Indian Provincial Acts.

138. Presumption raised by entry in register of members, etc.—Any register of members or shares kept by a co-operative society in the prescribed manner shall be *prima facie* evidence of any of the following particulars entered therein—

(a) the date on which the name of any person was entered in such register or list as a member; and

(b) the date on which any such person ceased to be a member.

139. Proof of entries in societies' books.—(1) A copy of any entry in a book of a co-operative society, regularly kept in the course of business and in the prescribed manner, shall, if certified in the prescribed manner, be received in any suit or legal proceeding as prima facie evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is admissible.

(2) No officer or liquidator of a co-operative society and no officer in whose office the books of a co-operative society are deposited after the society has been wound up shall, in any legal proceedings to which the society or the liquidator is not a party, be compelled to produce any of the society's books the contents of which can be proved under subsection (1), or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless specially so directed by an order of the Court or the arbitrator.

CHAPTER XV.

RULES.

140. Power to make rules.—(1) The Provincial Government may, for the whole or any part of Bengal, and for any co-operative society or class of co-operative societies, after previous publication, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely :—

(i) the sums which, in addition to those referred to in clause (c) of section 2, shall be deducted from profits ;

(ii) the period which shall be a co-operative year ;

(iii) the exemption of any society or class of societies from, and the extent of application to, any society or class of societies of, any of the provisions of this Act ;

(iv) the extent and manner of delegation of powers entrusted to the Registrar ;

(v) the conditions for registration of any co-operative society or class of societies ;

(vi) the forms to be used and the conditions to be complied with in the making of an application for the registration of a co-operative society and the procedure in the matter of such application ;

(vii) the procedure and conditions for the division of a co-operative society and amalgamation of co-operative societies ;

(viii) the extent to which a co-operative society may limit the number of its members ;

(ix) the matters in respect of which a co-operative society shall or may make by-laws, and the procedure and conditions for amending the by-laws ;

(x) the procedure and conditions for the exercise by the financing bank of the powers conferred by section 18 ;

(xi) the procedure for calling and holding general meetings, and the powers to be exercised by such meetings ;

(xii) the circumstances in which delegates may be elected for the purposes of section 20, the manner of electing delegates for any of the purposes of this Act and the manner in which delegates so elected, shall vote ;

(xiii) the date for the closing of the annual accounts of a co-operative society ;

(xiv) the method of constituting the managing committee of a co-operative society (including the appointment of persons to represent appropriate interests) ;

(xv) the qualifications, disqualification, term of office, suspension and removal of members of managing committees and officers of different classes of co-operative societies ;

(xvi) the procedure at meetings of the managing committee and the powers to be exercised and the duties to be performed by the managing committee and officers of a society ;

(xvii) the conditions of deputation of, and the powers to be exercised and duties to be performed by, a servant of the Crown deputed under section 24 ;

(xviii) the procedure and conditions for the suspension or supersession of the managing committee of a co-operative society and the method of appointment and qualifications of a person appointed under section 26 ;

(xix) the procedure for registering the address of a co-operative society and any change of its address ;

(xx) the minimum number of paid staff to be employed by different classes of co-operative societies and the qualifications thereof ;

(xxi) the accounts, books and registers to be kept and the returns to be submitted by a co-operative society, the form in which and the persons by whom such accounts, books and registers shall be kept and such returns submitted, the method in which such accounts, books and registers shall be kept in custody and destroyed and the charges which may be assessed and levied for the preparation of any return not submitted in accordance with the rules ;

(xxii) the documents to be kept open to inspection by a co-operative society under section 30 ;

(xxiii) the manner in which the balance sheet shall be published under section 31 ;

(xxiv) the conditions and terms under which, the manner in which and the extent to which funds may be raised by a co-operative society by means of shares, deposits, debentures or otherwise, and the manner in which provision shall be made for the maintenance of fluid resource ;

(xxv) the procedure and conditions for the issue, redemption, reissue, transfer, replacement or conversion of debentures, issued by a co-operative society ;

(xxvi) the maximum amount of principal, the rate of interest and other conditions for the guarantee of debentures under section 33 ;

(xxvii) the procedure and conditions for varying an instrument of trust between the Trustee and a co-operative society ;

(xxviii) the procedure whereby, and the conditions under which, guarantees or financial assistance may be given under section 33 or section 38 ;

(xxix) the payments to be made and the conditions to be complied with by members applying for loans from a co-operative society, the period for which loans may be made and the amount which may be lent to an individual member ;

(xxx) the conditions in which and the extent to which loans may be made in relaxation of the provisions of sub-section (1) of section 39 and the

determination by a society of the maxima and normal credits of its members;

(xxxi) the manner in which co-operative societies may be given an opportunity of being heard under sub-section (2) of section 39;

(xxxii) the prohibitions and restrictions subject to which co-operative societies may transact business with persons who are not members;

(xxxiii) the procedure and conditions for change of the form of liability of a co-operative society under section 43;

(xxxiv) in any case in which a notice or process is issued under this Act or the rules—

(a) the form of the notice or process;

(b) the period of notice to be given;

(c) the persons on or against whom the notice or process shall be issued; and

(d) the conditions to be fulfilled in order to establish proof of the service of such notice or process;

(xxxv) the form of the written statement of claim required by section 44;

(xxxvi) the form of application under, the form of map and statement and the manner of their publication required by, and the manner of levying water rate and embankment protection rate provided in, sections 48 and 49;

(xxxvii) the conditions in which any charge in favour of a co-operative society shall be satisfied and the extent to which and the order in which the property subject to the charge shall be used in its satisfaction;

(xxxviii) the form of and procedure for an application under section 54 and the procedure for calling, holding and conducting a meeting under that section;

(xxxix) the manner in which a co-operative society may invest or deposit its funds under section 55;

(xl) the proportion which shall be annually carried under section 56 to the reserve fund from the net profits of a co-operative society, the extent to which a society may use its reserve fund in its business and the method in which the reserve fund shall be invested;

(xli) the conditions in which, and the extent to which, the profits of a co-operative society may be distributed among its members under section 57;

(xlii) the co-operative purposes for which a co-operative society shall under section 58 contribute a percentage of its net profits, the extent of the contribution which may be made under clause (b) of that section and the manner of making such contributions;

(xliii) the amount or proportion of contribution which a co-operative society may make to a provident fund under section 59;

(xliv) the conditions in which a member of a co-operative society shall be disqualified from voting under sub-section (2) of section 60;

(xlv) the conditions to be complied with by a person applying for admission or admitted as a member of a co-operative society, the procedure for the admission, expulsion and resignation of members and the conditions for the exercise by members of the rights of membership;

(xlvi) the manner of recalling a loan under section 63;

(xlvii) the maximum portion of the share capital of a co-operative society which may be held by a member under section 67;

(xlviii) the conditions for the maximum holding of a member under section 68;

(xlix) the procedure and conditions for, and the method of, nomination by a member of a transferee under section 69;

(l) the procedure and conditions for the substitution by a society under sub-section (1) of section 70 of another person for the nominee of a deceased member and for the decision by the society to proceed under sub-section (2) of that section, and the procedure for calculating the value of the share or interest of a member or the sums due to him for the purposes of sections 70 to 74 inclusive;

(li) the manner of determining the value of land for the purposes of clause (3) of section 72;

(lii) the circumstances and manner in which a member may resign or be expelled from a co-operative society.

(liii) the procedure by which a co-operative society shall calculate and write off bad debts;

(liv) the date by which the annual audit shall be made and an audit report submitted, the procedure of an audit officer conducting an audit, the matters on which he shall submit a report, the form in which the statement of accounts shall be prepared for his audit, the limits within which he may examine the monetary transactions of the society, the form of his audit report and statement of accounts audited and the charges, if any, to be paid by a co-operative society for audit;

(lv) the manner in which appointments shall be made and control exercised by, and the number of persons comprising, and the other functions to be performed by the authority constituted under section 81, the manner of election and nomination of such persons, the fee to be paid to such authority and the manner of such payment;

(lvi) the conditions to be fulfilled and the qualifications to be possessed by a member of the paid staff of a financing bank certified by the Registrar under sub-section (2) of section 82;

(lvii) the qualifications of and method of appointing an arbitrator, the procedure to be followed in proceedings under Chapter IX and the method of calculating charges incidental to such proceedings and of enforcing decisions therein;

(lviii) the cases in which and the conditions under which it shall be obligatory upon the Registrar to order the winding up of a co-operative society;

(lix) the procedure for the appointment and removal of, and for the payment of remuneration to, a liquidator, the condition of such appointment; the conditions in which the Registrar shall exercise control of a liquidator and direct him to exercise his powers under section 91, and the procedure to be followed in proceedings under Chapter X;

(lx) the manner in which the surplus assets of a society which has been wound up shall be disposed of and its records shall be deposited;

(lxi) the manner of effecting distraint and the procedure for the custody, preservation and sale of the property distrained (including such as is perishable), the investigation of claims of persons other than the defaulter to any right or interest in the distrained property and the postponement of sale pending such investigation;

(lxii) the qualifications and method of appointment of a Sale Officer under section 102 and the powers and functions which such a Sale Officer may exercise;

(lxiii) in the case of a sale of immovable property under Chapter XI—

(a) the procedure for proclamation and conduct of the sale and the conditions in which an attempted sale may be abandoned;

(b) the method of calculating the expenses incidental to the sale or attempted sale;

(c) the procedure for the receipt, deposit and disposal of the proceeds of sale;

(d) the procedure for resale if an attempted sale is abandoned or the purchase money is not deposited within the prescribed time, and the penalty to be levied against a purchaser who fails so to deposit the purchase money;

(e) the period within which an application to set aside a sale under section 105 shall be made;

(f) the procedure for the payment to the purchaser of the purchase money and compensation deposited under section 105;

(g) the form and method of submission of a report by a co-operative land mortgage bank under sub-section (1) of section 106.

(h) the form of sale certificate under section 108, the form of the notices to be supplied under sub-section (3) of that section, the fee payable for the service of such notices, and the manner of serving such notices on, and of transmitting landlord's fee to, the landlord named in such notices; and

(i) the procedure for the delivery by the Court of the property purchased to the purchaser under section 109;

(lxiv) the time within which and the procedure according to which property purchased by a co-operative land mortgage bank at a sale of immovable property under Chapter XI shall be disposed of by the bank;

(lxv) in respect of a receiver appointed under section 112, the conditions in which he may be appointed or removed, the powers and functions which he may exercise and his procedure in the exercise thereof and the expenses of management and the remuneration which he may receive;

(lxvi) the circumstances in which action may be taken by the bank against the mortgagor under section 114 and the proportion referred to in the explanation to that section;

(lxvii) the procedure and conditions for the exercise of the powers conferred by section 115, and for the imposition of restrictions by the Trustee or the Registrar upon a co-operative land mortgage bank under section 121;

(lxviii) the fee payable under sections 118 and 119;

(lxix) the procedure and conditions for the exercise of the powers conferred by sections 123 and 124;

(lxx) the procedure for the conditional attachment of property under section 125;

(lxxi) the persons who may make awards under section 126;

(lxxii) the procedure and principles for the conduct of an inquiry under section 127 and the matters referred to in clause (b) of sub-section (1) thereof;

(lxxiii) the exercise of the powers conferred by section 128;

(lxxiv) the procedure and principles for the exercise of the powers conferred by section 129;

(lxxv) in the case of appeals lying to the Provincial Government, the authority to which the power of bearing appeals may be delegated;

(lxxvi) the method of certification of any document under section 139, the procedure and conditions for obtaining copies of documents and the charges to be levied for the supply of certified or uncertified copies;

(lxxvii) the procedure and conditions for inspecting documents in the office of the Registrar and the charges, if any, to be levied for such inspection ;

(lxxviii) the procedure for and method of calculating any costs, charges or expenses required to be levied under this Act or the rules ;

(lxxix) the procedure for and method of recovery of any sums due under this Act or the rules ;

(lxxx) the method of communicating or publishing any order, decision or award required to be communicated or published under this Act or the rules ;

(3) In making any rule under this Act the Provincial Government may direct that any person committing a breach thereof shall on conviction by a Court be punishable with fine which may extend to fifty rupees and, where the breach is a continuing one, with further fine which may extend to ten rupees for every day after the first during which the breach continues subsequent to such conviction.

FIRST SCHEDULE.
ENACTMENTS REPEALED.
(See section 3.)

Serial. 1	Year. 2	No. 3	Short Title. 4	Extent of repeal. 5
1	1912	II ...	The Co-operative Societies Act, 1912.	The whole, with the exception of (a) Sub-section (1) of section 28, and (b) Sub-section (2) of section 28, so far as it relates to the stamp duties specified in the second paragraph thereof.
2	1920	XXXVIII	The Devolution Act, 1920.	So much as relates to Act II of 1912.

SECOND SCHEDULE.
POWERS EXCLUSIVELY EXERCISABLE BY THE REGISTRAR.
(See section 10.)

Serial. 1	Section 2	Powers. 3
1	18 ...	To register an amendment of a by-law of a co-operative society which is a member of a financing bank, if the financing bank considers such amendment to be necessary or desirable and if the society has failed to make the amendment when called upon by the bank to do so.
2	43(1) ...	To approve a change in the form of liability of a co-operative society.
3	56(4)(c) ...	To approve the bank, other than a Government Savings Bank in which the reserve fund of a co-operative society may be invested or deposited.

SECOND SCHEDULE.—*Conold.*

Serial 1	Section 2	Powers. 3
4	127(2) ...	To require of any person who has taken part in the organization or management of a co-operative society or any past or present officer of such society, to contribute to the assets of the society any sum by way of compensation for any payment made, loss incurred or sum not accounted for in consequence of the action of such person or officer, or to restore any property misappropriated or fraudulently retained by such person or officer, and to require such person or officer to pay any sum to meet the costs of proceedings under this section.
5	128 ...	To impose penalties for certain contraventions of the provisions of this Act, the rules or by-laws.
6	129 ...	To enforce performance of certain obligations by a co-operative society, and to require the officer of the society whom the Registrar considers to be responsible for the default to pay a certain sum to the assets of the society.
7	133(2) ...	To give leave and impose terms for the institution of a suit or other legal proceeding against a liquidator, a co-operative society or any member thereof while such society is being wound up.
8	137(3) ...	To sanction the institution of any prosecution under this Act.

THIRD SCHEDULE.
RECOVERY OF SUMS DUE
(See section 130.)

Serial. 1	Nature of sum due. 2	Method of recovery. 3
1	Expenses incurred in writing up the accounts of a society under section 77; and sums awarded under section 129.	By the Collector as a public demand upon requisition by the Registrar or, in the case of section 77, with his approval, by the audit officer.
2	Costs of an inquiry or inspection apportioned under section 85; recovery of dues awarded under section 126; contributions by way of compensation awarded under section 127; and sums awarded under section 128.	By the Collector as a public demand upon requisition by the Registrar.

THIRD SCHEDULE—*Consold.*

Serial. 1	Nature of sum due. 2	Method of recovery. 3
3	Sums awarded to a co-operative society by any order made under section 87 or by an award having the effect of a final mortgage decree under section 88.	By the Collector as a public demand, upon requisition by the society ; <i>Or</i> : By any Civil Court having local jurisdiction, in the same manner as a decree of such court, upon application by the society.
4	Sums assessed by a liquidator as contributions under section 91.	By the Collector, as a public demand upon requisition by the Registrar or by the liquidator.
5	Sums due under any rule made under this Act.	In the manner prescribed.

FOURTH SCHEDULE.

APPEALS.

(See section 134).

Serial. 1	Order appealable. 2	By whom the appeal may be preferred ; and authority to which appeal lies. • 3	Period of limitation. 4
1	An order refusing to register a co-operative society under section 15 or an amendment of a by-law under section 17.	By any member of the society ; (a) if passed by the Registrar ; to the Provincial Government ; or (b) if passed by any other person ; to the Registrar.	Two months from the date on which the order is communicated to the society.
2	An order refusing to register an amendment under section 18.	By the financing bank ; to the Provincial Government.	Two months from the date on which the order is communicated to the financing bank.
3	An order of disqualification under section 25 or an order under section 26 dissolving a managing committee and appointing a person to manage the affairs of a society.	By any member of the managing committee ; (a) if passed by the Registrar ; to the Provincial Government ; or (b) if passed by any other person ; to the Registrar.	Two months from the date on which the order is communicated to the society.
4	An entry in or omission from the map or the statement of	By any person aggrieved ; to the Collector.	One month from date of publication of the statement.

Serial.	Order Appealable.	By whom the appeal may be preferred ; and authority to which appeal lies.	Period of limitation.
1	2	3	4
5	irrigable area prepared under section 48 or of protected area prepared under section 49. Assessment of water rate under section 48 or of embankment protection rate under section 49.	By any person aggrieved ; to the Registrar.	One month from the date of assessment.
6	An order under section 85 apportioning costs.	By any person aggrieved ; to the District Judge.	One month from the date on which the order was communicated to the person aggrieved.
7	Any order, decision or award of the Registrar or an arbitrator under section 87 or 88.	By any person aggrieved ; (a) if passed by the Registrar ; to the Provincial Government ; or (b) if passed by any other person ; to the Registrar.	One month from the date on which the order, decision or award was communicated to the person aggrieved.
8	An order passed under section 89 for the winding up of a society.	By any member of the Society ; (a) if passed by Registrar ; to the Provincial Government ; or (b) if passed by any other person ; to the Registrar.	Two months from the date on which the order was communicated to the society.
9	Any order, decision or award of a liquidator under section 91.	By any person aggrieved ; to the Registrar.	Two months from the date on which the order, decision or award was communicated to the person aggrieved.
10	Any order passed under section 127 or section 129.	By any person aggrieved ; to the District Judge.	Three months from the date on which the order was communicated to the person aggrieved.
11	Any order or decision declared by rules under this Act to be appealable.	By the person declared by the rules to be competent to appeal to the prescribed authority.	The period prescribed.

FIFTH SCHEDULE.
OFFENCES AND PENALTIES.
(See section 136.)

Serial. 1	Offences. 2	Person liable. 3	Penalty. 4
1	Unauthorised use of the word "co-operative" in any name or title under which business is carried on in contravention of section 7.	The company, society or person carrying on business under a name or title in which the word is thus used.	Fine which may extend to fifty rupees; and in the case of a continuing offence a further fine of five rupees for each day on which the offence is continued after conviction therefor.
2	Wilful neglect or refusal by any person to do any act, make any return or furnish any information required to be done, made or furnished under this Act or the rules.	The person neglecting or refusing to do the act, make the return or furnish the information.	Fine which may extend to fifty rupees; and in the case of a continuing offence a further fine of five rupees for each day on which the offence is continued after conviction therefor.
3	Wilfully making a false return or furnishing false information required to be made or furnished under this Act or the rules.	The person wilfully making the false return or furnishing the false information.	Fine which may extend to one hundred rupees.
4	Removing or otherwise disposing of or suffering to be removed or otherwise disposed of any property on which a co-operative society holds a first charge under section 47 with intent to defraud the society or with such intent doing any other act to the prejudice of the society's first charge.	The person by whom or on whose behalf the property is removed or disposed of or the act done.	Fine which may extend to two hundred rupees.
5	Any act or omission declared by the rules to be an offence.	The person rendered liable by the rules.	The penalty provided in the rules.

THE BENGAL RURAL POOR UNEMPLOYED RELIEF
(AMENDMENT) ACT, 1941, AND THE BENGAL LOCAL SELF-
GOVERNMENT (AMENDMENT) ACT, 1941.

**The Bengal Rural Poor and Unemployed Relief (Amendment)
Act, 1941.**

The following Act of the Bengal Legislature has been assented to in His Majesty's name by the Governor [Vide Notification No. 2 T. L., dated the 10th May 1941 of the Legislative Department, published at pages 63-64 of Part III of the *Calcutta Gazette*, dated the 15th May 1941.]

Bengal Act II of 1941.

[Passed by the Bengal Legislature].

[Assent of the Governor was first published in the *Calcutta Gazette* of the 15th May, 1941.]

An Act to amend the Bengal Rural Poor and Unemployed Relief Act, 1939.

WHEREAS it is expedient to amend the Bengal Rural Poor and Unemployed Relief Act, 1939, for the purposes and in the manner hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Bengal Rural Poor and Unemployed Relief (Amendment) Act, 1941.

Notes.

The Act removes certain verbal defects in section 3 (3) and in the second proviso to section 8(2) of the Bengal Rural Poor and Unemployed Relief Act, 1939. [Vide Statement of Objects and Reasons, printed at page 138 of Part IVB of the *Calcutta Gazette*, 1940]

2. *Amendment of section 3 of Ben. Act X of 1939.*—In sub-section (3) of section 3 of the Bengal Rural Poor and Unemployed Relief Act, 1939 (hereinafter referred to as the said Act)—

(a) for the words "different kinds of" the word "separate" shall be substituted, and

(b) for the words "another lock" the words "the other" shall be substituted.

3. *Amendment of section 8.*—For the two provisos to sub-section (2) of section 8 of the said Act the following proviso shall be substituted, namely :—

"Provided that the Committee may, at a meeting thereof, direct that such relief be granted—

(i) for a period exceeding five, but not exceeding ten, days at any one time;

(ii) in the form of clothing or other articles."

The Bengal Local Self-Government (Amendment) Act, 1941.

The following Act of the Bengal Legislature has been assented to in His Majesty's name by the Governor [Vide Notification No. 5. T. L., dated the 12th May 1941 of the Legislative Department, published at pages 64-68 of Part III of the *Calcutta Gazette*, dated the 15th May 1941.]

Bengal Act III of 1941.

[Passed by the Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette* of the 15th May, 1941.]

An Act further to amend the Bengal Local Self-Government Act of 1885.

WHEREAS it is expedient further to amend the Bengal Local Self-

Government Act of 1885 for the purposes and in the manner hereinafter appearing and to that end also to amend the Court-fees Act, 1870, in its application to Bengal in the manner hereinafter appearing ;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Bengal Local Self-Government (Amendment) Act, 1941.

2. *Amendment of section 15A of Bengal Act III of 1885.*—In section 15A of the Bengal Local Self-Government Act of 1885 (hereinafter referred to as the said Act),—

(1) for the words, figures, brackets and letter "the authority appointed under clause (a) of section 138 to decide disputes relating to elections" the words, figures and letter "the Judge under section 18D",

(2) for the words "the said authority" the words "the Judge", and

(3) for the words "such authority" the words "the Judge" shall be substituted.

3. *Substitution of new sections for section 18B.*—For section 18B of the said Act the following sections shall be substituted, namely :—

18B. *Proceedings relating to disputes as to the validity of an election.*—(1) If there is any dispute as to the validity of an election of a member of a District Board or a Local Board held under this Act, any person entitled to vote at such election may, within thirty days after the date of the declaration of the result of such election, file a petition before the District Judge of the district within which the election has been held or should have been held, calling in question such election on one or more of the grounds set forth in clauses (a) to (e) of sub-section (1) of section 18B or section 18E.

(2) In every petition filed under sub-section (1) all the candidates at the election to which the dispute relates shall be made parties.

(3) The petitioner shall, at the time of filing the petition under sub-section (1), deposit in Court one hundred rupees as security for the costs likely to be incurred by any of the respondents :

Provided that the validity of any election shall not be questioned in any petition under this section—

(a) on the ground that the name of any person qualified to vote has been omitted from the electoral roll, or

(b) on the ground that the name of any person not qualified to vote has been inserted in the electoral roll.

18C. *Procedure and powers of Judge holding inquiry.*—(1) Where a petition has been filed under section 18B the District Judge or any judicial officer subordinate to him and not below the rank of a Subordinate Judge to whom the District Judge may transfer the petition (referred to in this Chapter as the Judge), may hold such inquiry in accordance with the procedure prescribed by rules made by the Provincial Government under section 138 as he deems necessary.

(2) Where a petition has been transferred by the District Judge to a subordinate judicial officer under the provisions of sub-section (1) for disposal, the District Judge may at any time for reasons to be recorded in writing withdraw such petition to his own file and dispose of it himself, or may re-transfer it to another such subordinate judicial officer for disposal.

(3) For the purposes of the said inquiry the Judge may summon and enforce the attendance of witnesses and compel them to produce documents or articles in their possession or power and to give evidence as if he were a Civil Court, and may also direct by whom the whole or any part of the

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ACT, 1941.

costs of such inquiry shall be paid, and such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure, 1908.

(4) The Judge may, at any stage of the proceedings, require the petitioner to deposit in Court a further sum as the costs incurred or likely to be incurred by any respondent, or to give security, or further security for the payment of the same, and if, within the time fixed by him, or within such further time as he may allow, such costs are not deposited or such further security is not furnished, as the case may be, may dismiss the petition.

18D. *Grounds for declaring election void.*—(1) If the Judge after holding an inquiry under section 18C is satisfied that—

(a) the election of a returned candidate has been procured or induced, or the result of the election has been materially affected, by a corrupt practice, or

(b) any corrupt practice specified in Part I of the Fourth Schedule has been committed, or

(c) the election has not been a free election by reason of the general employment of bribery or undue influence as defined in Chapter IXA of the Indian Penal Code, or by reason of any form of general intimidation, including any form of social boycott, or

(d) the result of the election has been materially affected by any non-compliance with the provisions of this Act or the rules made thereunder or by any mistake in the use of any form prescribed for an election or by any error, irregularity or informality on the part of any officer charged with or carrying out any duty under this Act or rules made thereunder, or

(e) the result of the election has been materially affected by the improper acceptance or refusal of candidate's nomination,
he shall declare the election of such candidate to be void.

(2) If, after any such inquiry, the Judge is of opinion that a returned candidate has been guilty by an agent (other than his election agent) or any other person of any corrupt practice specified in Part I of the Fourth Schedule which does not amount to any form of bribery other than treating as hereinafter explained or to the procuring or abetment of personation, and if the Judge is also of opinion that the candidate has satisfied him that—

(a) no corrupt practice was committed at such election by the candidate or his election agent and the corrupt practices which were found by the Judge to have been committed were of a trivial, unimportant and limited character and were committed contrary to the orders and without the sanction or connivance of such candidate or his election agent, and

(b) in all other respects the election was free from any corrupt practice on the part of such candidate or any of his agents,
then, the Judge may find that the election of such candidate is not void.

Explanation.—For the purposes of this sub-section "treating" means the incurring in whole or in part by any person of the expense of giving or providing any food, drink, entertainment or provision to any person with the object, directly or indirectly, of inducing him or any other person to vote or refrain from voting or as a reward for having voted or refrained from voting.

18E. *Scrutiny of votes and declaration in other cases.*—If there is any dispute as to the validity of an election by reason of erroneous or wrongful scrutiny and counting of votes given to a candidate and the election is called in question under sub-section (1) of section 18B on that ground, the Judge shall after a scrutiny and computation of the votes recorded in favour of each candidate declare the candidate who is found to have the greatest number of valid votes in his favour to have been duly elected :

Provided that for the purpose of such computation no vote shall be reckoned as valid if it is found by the Judge that any corrupt practice was committed by any person known or unknown in giving or obtaining it.

18F. *Dismissal of petition.*—If the Judge after holding an inquiry under section 18C is satisfied that no ground exists for declaring the election to be void in the manner provided in sub-section (1) of section 18D or modifying it in the manner provided in section 18E, he shall dismiss the petition.

18G. *Decision of the Judge to be final.*—The decision or order of the Judge under section 18D, 18E or 18F shall be final.

18H. *Saving of acts done by a member before his election is set aside and of previous proceedings of the local authority.*—Where a candidate, who has been elected to be a member of a District Board or a Local Board, is declared by the Judge not to have been duly elected, acts done by him in execution of the duties of his office before the time when the decision is certified to the District Board or the Local Board concerned shall not be invalidated by reason of that declaration and any previous proceedings of the said local authority of which such candidate was a member shall not be deemed to be affected thereby in any respect.

18I. *Bar to interference by Courts in election matters.*—No election of a member of a District Board or a Local Board shall be called in question in any Court except under the procedure provided by this Act and no order passed in any proceeding under sections 18B to 18G (both inclusive) shall be called in question in any Court and no Court shall grant an injunction—

(a) to postpone an election of a member of a District Board or a Local Board, or

(b) to prohibit any person declared to have been duly elected under this Act from taking part in the proceedings of a District Board or a Local Board of which he has been elected a member, or

(c) to prohibit the members formally elected or appointed for a District Board or Local Board from entering upon their duties.

4. *Amendment of section 19.*—In sub-section (1) of section 19 of the said Act, for the words, figures and letter "having become void under section 18B" the words, brackets, figures and letter "having been declared void under sub-section (1) of section 18D" shall be substituted.

5. *Amendment of section 138.*—In section 138 of the said Act—

(a) in clause (a), as in force in areas under the administration of Union Boards established under the Bengal Village Self-Government Act, 1919, and in areas not under such administration, the words "and determining the authority who shall decide disputes relating to such elections" shall be omitted ; and

(b) after clause (aa) the following clause shall be inserted, namely :

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ACT, 1941.

"(aaa) determining the procedure to be followed by a Judge under section 18C in inquiring into election petitions;"

6. *Repeal of section 148.*—Section 148 of the said Act is hereby repealed.

7. *Amendment of Fourth Schedule.*—In the reference to sections under the heading to the Fourth Schedule to the said Act for the word, figures and letter "and 18B" the word, figures and letters "18D and 18E" shall be substituted.

8. *Amendment of Schedule II to Act VII of 1870.*—(1) The Court-fees Act, 1870, shall, in its application to Bengal, be amended in the manner provided in sub-section (2).

(2) In the first column of clause (b) of Article 22 of Schedule II to the Court-fees Act, 1870, for the words, letter and figures "to any authority appointed under clause (a) of section 138" the words, figures and letter "to a District Judge under section 18B" shall be substituted.

9. *Application.*—(1) The provisions of sections 18B to 18I (both inclusive) of the said Act as substituted by section 3 of this Act shall apply to all suits and proceedings relating to disputes in respect of any election of a member of a District Board or of a Local Board which are pending on the date of commencement of this Act, either in any Civil Court or in the High Court or before any authority appointed before such date to decide such disputes under the said Act and no such suits or proceedings shall be continued after the commencement of this Act.

(2) Where any suit or proceeding relating to disputes in respect of any election of a member of a District Board or of a Local Board is pending on the date of the commencement of this Act either in a Civil Court or in the High Court or before the authority appointed before such date to decide such disputes under the said Act and cannot be continued by reason of the provisions of sub-section (1), a petition calling in question such election may be filed under section 18B of the said Act as substituted by section 3 of this Act within thirty days after the date of commencement of this Act.

(3) The Judge holding an inquiry under section 18C of the said Act into the petition filed under sub-section (2), shall in assessing the costs of such inquiry under sub-section (3) of the said section 18C take into consideration the costs, if any, incurred by the parties in the suit or proceeding which could not be continued by reason of the provisions of sub-section (1) and may include such costs or any portion of the same in any costs awarded by him to any of the parties under sub-section (3) of the said section 18C and may for such purpose call for the records of the said suit or proceeding.

The Bengal Water-Hyacinth (Amendment) Act, 1941.

The following Act of the Bengal Legislature has been assented to in His Majesty's name by the Governor [Vide Notification No. 6 T. L., dated the 15th May 1941 of the Legislative Department, published at pages 69-71 of Part III of the *Calcutta Gazette*, dated the 22nd May 1941.]

Bengal Act IV of 1941.

Passed by the Bengal Legislature.

[Assent of the Governor was first published in the *Calcutta Gazette* of the 22nd May 1941.]

An Act to amend the Bengal Water-Hyacinth Act, 1936.

WHEREAS it is expedient to amend the Bengal Water-Hyacinth Act, 1936, for the purpose and in the manner hereinafter appearing;

It is hereby enacted as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Bengal Water-Hyacinth (Amendment) Act, 1941.

(2) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

Notes.

Object.—*The crops of certain tracts of this province are devastated by water-hyacinth largely because there is lack of co-operation and organisation among the people for constructing and maintaining protective fences and barriers to prevent the influx and divert the movement of water-hyacinth in those areas. To remedy this, amendment of the Bengal Water-Hyacinth Act, 1936, is considered necessary. The object of the Bill is to amend the Bengal Water-Hyacinth Act, 1936, so as to enable Collectors or Authorised Officers to prepare schemes, make estimates of the cost, and carry out the work of construction and maintenance of fences and barriers, &c., and to recover the cost proportionately from the persons benefited. Certain consequential changes arising out of this amendment have also been incorporated in the Bill [Vide Statement of Objects and Reasons, printed at page 47 of Part IVB of the *Calcutta Gazette*, 1940.]

2. *Amendment of section 2 of Bengal Act XIII of 1936.*—In clause (1) of section 2 of the Bengal Water-Hyacinth Act, 1936 (hereinafter referred to as the said Act) for the word and figure "and 9" the word, figures and letter "9 and 13A" shall be substituted.

3. *Insertion of new section 13A.*—After section 13 of the said Act, the following section shall be inserted, namely :—

"13A. *Cost of work under section 13.*—(1) An Authorised Officer may cause a scheme and estimate to be prepared for the construction and maintenance of any work referred to in sub-section (1) of section 13.

(2) As soon as possible after the preparation of the scheme and estimate the Authorised Officer shall prepare a preliminary list of apportionment, showing the names of persons likely to be benefited by the work and the portion of the cost thereof approximately payable by each such person, and shall, in the prescribed manner, publish a general notice inviting objections to the scheme, estimate, or list of apportionment by any person interested in, or likely to be benefited by, the scheme within such period as may be specified in the notice.

(3) The Collector shall, as soon as possible after the expiry of the period specified in the notice published under sub-section (2), proceed in the prescribed manner, to consider any objections received in regard to the scheme, estimate or preliminary list of apportionment.

(4) Subject to such rules as may be prescribed in this behalf, the Collector may accept the scheme, estimate and list of apportionment with such modifications as he may deem necessary, and the decision of the Collector thereon shall be final.

(5) On the completion of the work referred to in sub-section (1) of section 13, the cost of the work shall be entered by the Authorised Officer in a final list of apportionment in accordance with the decision of the Collector under sub-section (4); and that portion of the cost which is so entered against the name of each person in the said list shall be the amount recoverable from that person.

(6) The amount referred to in sub-section (5) shall be recovered in the manner provided in sections 11 and 12.

66 THE BENGAL MOTOR SPIRIT SALES TAXATION ACT, 1941.

Explanation.—For the purposes of this section 'cost' includes—

(a) the total expenditure incurred for surveys, plans, estimates, valuations and incidental expenses connected with any scheme, whether antecedent or subsequent to the adoption of the scheme, and all expenses incurred in its execution ;

(b) the estimated capitalized cost of the maintenance of the work ;

(c) the total expenditure incurred by the Authorised Officer in connection with the scheme, inclusive of any preliminary inquiry and the apportionment of cost and its recovery ;

(d) interest on all recoverable deposits or advances made by the Provincial Government, or by a local authority, or any person, at such rates and from and to such dates as may be fixed by the Provincial Government."

4. Amendment of section 23.—In sub-section (2) of section 23 of the said Act—

(a) in clause (a) after the words "a general notice" the words, figures, letter and brackets "under sub-section (2) of section 13A or" shall be inserted, and

(b) in clause (d) after the figures "13" the figures and letter "13A" shall be inserted.

The Bengal Motor Spirit Sales Taxation Act, 1941.

The following Act of the Bengal Legislature has been assented to in His Majesty's name by the Governor-General [Vide Notification No. 29 T. L., dated the 9th June 1941 of the Legislative Department, published at pages 73 to 79 of Part III of the *Calcutta Gazette*, dated the 12th June 1941.]

• Bengal Act V of 1941.

[Passed by the Bengal Legislature.]

[Assent of the Governor-General was first published in the *Calcutta Gazette* of the 12th June 1941.]

An Act to provide for the levy of a tax on retail sales of motor spirits in Bengal.

WHEREAS it is expedient to further the construction of new roads in Bengal, and therefore to provide for the levy of a tax on retail sales of motor spirit in Bengal ;

It is hereby enacted as follows :—

1. Short title, extent and commencement.—(1) This Act may be called the Bengal Motor Spirit Sales Taxation Act, 1941.

(2) It extends to the whole of Bengal.

(3) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context—

(a) "motor spirit" means any liquid or admixture of liquids which is ordinarily used directly or indirectly as fuel for any form of motor vehicle or stationary internal combustion engine, and which has a flashing point below 76 degrees Fahrenheit ;

(b) "prescribed" means prescribed by rules made under this Act ;

(c) "retail dealer" means any person who sells or keeps for sale motor spirit for the purpose of consumption by the purchaser ;

(d) "retail sale" means a sale of motor spirit by a retail dealer for the purpose of consumption by the purchaser ;

(e) "wholesale dealer" means any person who sells motor spirit, or keeps motor spirit for sale, to retail dealers in such spirit, for the purpose of re-sale or for consumption by such dealers.

Explanation.—A sale of motor spirit by a co-operative society or a club or a firm or any association to one of its members for consumption is a retail sale within the meaning of clause (d).

3. *Levy of tax.*—(1) Except as otherwise expressly provided in this Act, there shall be charged and levied on all retail sales of motor spirit effected after the 30th day of September 1941, a tax at the rate of one anna and six pies per gallon; and such tax shall be payable to the Provincial Government by the retail dealer:

Provided that the tax payable in respect of motor spirit sold to a retail dealer and used by such dealer for his own consumption shall be paid by such dealer.

(2) Where any retail dealer obtains their supplies of motor spirit from a wholesale dealer, the Provincial Government may by agreement with the wholesale dealer, levy from him in advance the tax which may be payable by the retail dealers under sub-section (1) on the sale of consumption by them of the motor spirit, and the provisions of this Act relating to the assessment and recovery of tax shall, subject to such conditions as may be agreed upon, apply to the wholesale dealer accordingly.

(3) No tax shall be levied under this Act on the sale of any motor spirit in respect of which such tax has already been paid.

(4) No tax shall be levied under this Act on the sale of any motor spirit for the purpose of aviation.

4. *No dealer to carry on business without a licence.*—(1) No person shall, after the commencement of this Act, carry on business in motor spirit as a wholesale or retail dealer at any place except under a licence granted under this Act and in conformity with the conditions of such licence;

Provided that persons carrying on such business at the commencement of this Act shall be allowed two months from such commencement to obtain such licence.

(2) Where a retail dealer has more than one place of business, whether in the same district, village or town or in different districts, villages or towns, he shall obtain a separate licence in respect of each such place of business.

(3) No wholesale dealer shall, except under a licence granted under this Act for carrying on business in motor spirit as a retail dealer, sell motor spirit for consumption or sale in Bengal to any person other than a wholesale or retail dealer, possessing a licence under this Act.

(4) Application for licence under this Act for carrying on business in motor spirit as a wholesale or retail dealer shall be made in such form and to such authority as may be prescribed.

(5) If the authority referred to in sub-section (4) is satisfied that an application for licence is in order he shall issue the licence to the applicant and every such licence shall be in the prescribed form and contain the prescribed particulars and shall be subject to the prescribed conditions.

(6) Subject to such conditions as may be prescribed, a licence granted under this section may be suspended or cancelled by the authority which granted it—

(a) if there is any contravention of any of the provisions of this Act or any breach of the conditions subject to which the licence was granted, or

(b) if the holder of the licence has ceased to carry on the business or has sold or otherwise transferred his interest in the business in respect of which the licence was granted.

(7) The holder of a licence shall not be entitled to any compensation for any loss or damage if suffered by him as a result of suspension or cancellation of his licence under sub-section (6).

5. Retail dealers to keep books of account and submit returns.—Every retail dealer shall in respect of his business at each place where he carries on business—

(a) keep books of account in the prescribed form; and

(b) submit every month to such authority as may be prescribed a correct return in the prescribed form and by the prescribed date showing—

(i) the quantity of motor spirit received by him during the preceding month;

(ii) the quantity sold by him during such month;

(iii) the quantity consumed by him out of his own stock of motor spirit during such month; and

(iv) such other particulars as may be prescribed.

6. Payment of the tax and receipt for such payment.—Before submitting the return referred to in clause (b) of section 5 in each month, the retail dealer shall pay into a Government treasury or the Reserve Bank of India, the full amount of the tax due under this Act in respect of the motor spirit sold by him in retail or consumed by him out of his own stock during the preceding month according to such return, and furnish along with the return a receipt from such treasury or Bank showing payment of such amount.

7. Determination of the amount of tax by the prescribed authority in certain cases.—(1) If no return is submitted by a retail dealer under clause (b) of section 5 in respect of any month by the prescribed date in that behalf, or if the return is submitted without a receipt showing payment of the full amount of the tax due as required by section 6 or if the return submitted appears to the authority referred to in clause (b) of section 5 to be incorrect or incomplete, such authority shall, after making such inquiry, if any, as it considers necessary, determine the amount of the tax due from such retail dealer in respect of such month and the amounts so determined less the sum, if any, already paid by him shall be paid by the retail dealer into a Government treasury or the Reserve Bank of India within fourteen days after demand is made therefor;

Provided that before the prescribed authority determines under this sub-section the amount of the tax due, the retail dealer shall be given a reasonable opportunity of proving the correctness and completeness of the return, if any, submitted by him, and for this purpose he shall be allowed a period of not less than seven days.

(2) If the amount of the tax due is not paid within the period mentioned in sub-section (1), the authority referred to in clause (b) of section 5 may direct that the retail dealer shall pay in addition to the amount of the tax so unpaid a sum not exceeding that amount by way of penalty.

(3) If default is made in making payment of the amount of tax due within the period mentioned in sub-section (1) or in making payment of any

penalty referred to in sub-section (2), it shall be recoverable from the person from whom it is due as an arrear of land-revenue.

8. Refunds.—The authority referred to in clause (b) of section 5 shall, in the prescribed manner, refund to a retail dealer applying in this behalf any amount of tax paid by such dealer in excess of the amount due from him under this Act, either by cash payment or, at the option of the dealer, by deduction of such excess from the amount of tax due in respect of any subsequent return.

9. Wholesale dealer to keep books of account and submit returns.—Every wholesale dealer shall submit every quarter to such authority as may be prescribed, a correct return in the prescribed form and by the prescribed date showing—

(i) the quantities of motor spirit supplied by him during the preceding quarter to retail dealers in Bengal, specifying the name and address of each retail dealer, the quantity supplied to him, and the dates on which the supplies were made; and

(ii) such other particulars as may be prescribed.

10. Transfer of business.—(1) No person carrying on business in motor spirit as a wholesale or retail dealer shall sell or otherwise dispose of such business or any part thereof except to a person possessing an appropriate licence under this Act to carry on such business.

(2) If any person carrying on any such business sells or otherwise disposes of such business or any part thereof, he shall within fourteen days inform the prescribed authority accordingly; and if any such person dies, his legal representative shall in like manner inform the said authority.

(3) If any person carrying on any such business dies, his legal representative shall either—

(a) apply within thirty days for an appropriate licence under this Act to carry on the business; or

(b) sell or otherwise dispose of the business within thirty days to a person possessing an appropriate licence under this Act to carry on the business; or

(c) dispose of the stocks of motor spirit, in respect of the sale of which tax under this Act has not been paid, under the directions of the authority referred to in sub-section (2).

(4) When the ownership of the business in motor spirit or any part thereof of a retail dealer is transferred, any tax payable under this Act in respect of sales of such business or part thereof, by such retail dealer which remains unpaid at the time of the transfer shall be payable by the transferee.

11. Powers of inspection, entry and search.—(1) Any person empowered by the Provincial Government in this behalf may, for the purposes of this Act,—

(a) require any wholesale or retail dealer to make available for inspection at the ordinary place of business of the dealer all accounts, vouchers and other documents relating to stocks, purchases, sales and deliveries of motor spirit, or to furnish any other information relating thereto, and every such wholesale and retail dealer shall comply with such requisition; and

(b) inspect such accounts, vouchers and documents of, and the motor spirit stocked by, any wholesale or retail dealer.

(2) For the purposes of sub-section (1) any such person specially empowered by the Provincial Government in this behalf may enter and

search at any time by day any building, vessel, vehicle or place in which he has reason to believe that any wholesale or retail dealer carries on business or keeps any stock of motor spirit.

(3) All searches made under sub-section (2) shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898.

12. Determination of certain questions by the prescribed authority.—Any question as to whether a tax or penalty is recoverable under this Act, the person from whom it is due and the amount so recoverable shall be determined by the prescribed authority.

13. Returns, etc., to be confidential.—No person to whom any returns under this Act are submitted or who makes an inspection under section 11 shall, save with the previous sanction of the Provincial Government, disclose any information obtained from any such return or inspection, otherwise than departmentally or for the purposes of a prosecution under the Indian Penal Code in respect of any such return, or of any account, voucher or other document inspected, or for the purposes of a prosecution under this Act.

14. Penalties.—Any person who—

(a) carries on business in motor spirit as a wholesale or a retail dealer at any place except under a licence granted under sub-section (1) of section 4 or when the licence granted under that sub-section in respect of such place of business is no longer in force; or

(b) fails to keep books of account as required by clause (a) of section 5; or

(c) fails to submit any return as required by clause (b) of section 5 or by section 9 or submits a false return; or

(d) fraudulently evades the payment of any tax due under this Act; or

(e) neglects to furnish any information required by sub-section (2) of section 10 or acts in contravention of the provisions of that section; or

(f) refuses to comply with a requisition under clause (a) of sub-section (1) of section 11 or obstructs any officer making an inspection or a search under section 11; or

(g) discloses any information in contravention of the provisions of section 13; or

(h) acts in contravention of any of the provisions of this Act; shall on conviction be punished with fine which may extend to one thousand rupees, and in the case where the failure, evasion or contravention is a continuing one with a further fine which may extend to fifty rupees for every day after the first during which such failure, evasion or contravention continues subsequent to such conviction.

15. Offences to be cognizable and bailable.—All offences punishable under this Act shall be cognizable and bailable.

16. Power to compound offences.—(1) Subject to such conditions as may be prescribed the prescribed authority may accept from any person charged with any offence punishable under this Act or any rule made thereunder, by way of composition for such offence, payment of a sum of money not exceeding five hundred rupees or double the amount of the tax payable, whichever is greater.

(2) If payment by way of composition is accepted under sub-section (1), the accused if in custody, shall be discharged and no further proceedings shall be taken against him in respect of such offence.

17. Jurisdiction to try offences.—(1) No Court shall take cognizance of any offence under this Act or the rules made thereunder except upon a complaint made with the previous sanction of the prescribed authority.

(2) No Court inferior to that of a Presidency Magistrate or a Magistrate of the second class shall try an offence punishable under this Act.

18. Officers to be deemed public servants.—All persons empowered to perform any function under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

19. Indemnity.—No suit, prosecution or other legal proceedings shall lie against any servant of the Crown for anything which is in good faith done or intended to be done under this Act.

20. Appeal and revision.—(1) Any person aggrieved by any order made under this Act or the rules made thereunder may appeal to the prescribed authority within thirty days from the date of such order.

(2) Every order passed in appeal under this section shall, subject to the powers of revision conferred by sub-section (3), be final.

(3) The prescribed authority may, at any time, either of its own motion or on application call for and examine the record of any order passed or the proceedings recorded by any officer or person subordinate to such authority, for the purpose of satisfying itself as to the legality or propriety of such order, or as to the regularity of such proceedings, and may pass such order in reference thereto as it thinks fit.

(4) Nothing in this section shall apply to the orders or proceedings of any Court or Magistrate.

21. Power to make rules.—(1) The Provincial Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form of application for licence under sub-section (4) of section 4 and the authority which may grant licences;

(b) the form of licence, the particulars to be contained therein and the conditions subject to which licences may be granted;

(c) the conditions subject to which licences may be suspended or cancelled;

(d) the forms in which books of account under clause (a) of section 5 are to be kept;

(e) the authority to which returns are to be submitted every month under clause (b) of section 5 and every quarter under section 9 and the forms of such returns and the date by which they are to be submitted and the additional particulars required under sub-clause (iv) of clause (b) of section 5 and clause (ii) of section 9 to be contained in those returns;

(f) the authority to which information referred to in sub-section (2) of section 10 shall be given;

(g) the authority referred to in section 12.

(h) the authority which may accept under sub-section (1) of section 16, payment by way of composition for offences under this Act and the conditions under which such offences may be compounded;

(i) the authority which may sanction prosecutions under this Act ;

(j) the authority to which an appeal shall lie under sub-section (1) of section 20 and which may exercise powers under sub-section (3) of that section.

(3) In making any rule, the Provincial Government may provide that a breach of it shall be punishable with a fine not exceeding fifty rupees.

The Bengal Finance (Sales Tax) Act, 1941.

The following Act of the Bengal Legislature has been assented to in His Majesty's name by the Governor-General [Vide Notification No. 749L., dated the 30th June 1941, published at pages 59 to 72 of Part III of the *Calcutta Gazette*, Extraordinary, dated the 1st July 1941.]

Bengal Act VI of 1941.

[Passed by the Bengal Legislature.]

[Assent of the Governor-General was first published in the *Calcutta Gazette*, Extraordinary, of the 1st July 1941.]

An Act to impose a general tax on the sale of goods in Bengal.

WHEREAS it is necessary to make an addition to the revenues of Bengal, and for that purpose to impose a general tax on the sale of goods in Bengal ;

It is hereby enacted as follows ;

1. *Short title, extent and commencement.*—(1) This Act may be called the Bengal Finance (Sales Tax) Act, 1941.

(2) It extends to the whole of Bengal.

(3) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

Notes.

The Act shall come into force on the 1st July 1941 vide Notification No. 1648 F, dated the 30th June 1941 of the Finance Department, published in the *Calcutta Gazette*, Extraordinary, dated the 1st July 1941.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) "Commissioner" means the Commissioner of Commercial Taxes appointed under sub-section (1) of section 3;

(b) "contract" means any agreement for carrying out for cash or deferred payment or other valuable consideration—

(i) the construction, fitting out, improvement or repair of any building, road, bridge or other immovable property ; or

(ii) the installation or repair of any machinery affixed to a building or other immovable property, or

(iii) the overhaul or repair of any motor vehicle ;

(c) "dealer" means any person, firm or Hindu joint family, engaged in the business of selling or supplying goods in Bengal ; and where the main place of business of any such person, firm or Hindu joint family is not in Bengal, "dealer" means the manager or other agent of such person, firm or Hindu joint family in Bengal ;

Explanation.—A co-operative society or a club or any association which sells or supplies goods to its members is a dealer within the meaning of this clause ;

(d) "goods" means all kinds of movable property other than actionable claims, stocks, shares or securities, and includes all materials, articles and

commodities, whether or not to be used in the construction, fitting out, improvement or repair of immovable property;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "registered" means registered under this Act;

(g) "sale" means any transfer of property in goods for cash or deferred payment or other valuable consideration, including a transfer of property in goods involved in the execution of a contract, but does not include a mortgage, hypothecation, charge or pledge;

Explanation 1.—A transfer of goods on hire purchase or other instalment system of payment shall, notwithstanding that the seller retains a title to any goods as security for payment of the price, be deemed to be a sale:

Explanation 2.—Notwithstanding anything to the contrary in the Indian Sale of Goods Act, 1930, the sale of any goods which are actually in Bengal at the time when the contract of sale (as defined in that Act) in respect thereof is made, shall, wherever the said contract of sale is made, be deemed for the purposes of this Act to have taken place in Bengal;

(h) "sale-price" means the amount payable to a dealer as valuable consideration for—

(i) the sale of any goods, less any sum allowed as cash discount according to ordinary trade practice, but including any sum charged for anything done by the dealer in respect of the goods at the time of, or before, delivery thereof, other than the cost of freight or delivery or the cost of installation when such cost is separately charged; or

(ii) the carrying out of any contract, less such portion as may be prescribed of such amount, representing the usual proportion of the cost of labour to the cost of materials used in carrying out such contract;

(i) "turnover" means the aggregate of the amounts of sale-prices and parts of sale-prices received by any dealer during a given period; and

(j) "year" means, in relation to any particular dealer, the year for which the accounts of that dealer are ordinarily maintained in his books.

3. Taxing authorities.—(1) For carrying out the purposes of this Act, the Provincial Government may appoint a person to be commissioner of Commercial Taxes, together with such other persons to assist him as it thinks fit.

(2) Persons appointed under sub-section (1) shall exercise such powers as may be conferred, and perform such duties as may be required, by or under this Act.

(3) All persons appointed under sub-section (1) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

4. Incidence of taxation.—(1) Subject to the provisions of sections 5 and 6 and with effect from such date as the Provincial Government may, by Notification in the *Official Gazette*, appoint, being not earlier than thirty days after the date of the said notification, every dealer whose gross turnover during the year immediately preceding the commencement of this Act exceeded the taxable quantum shall be liable to pay tax under this Act on all sales effected after the date so notified;

Provided that the tax shall not be payable on sales involved in the execution of a contract which is shown to the satisfaction of the Commissioner to have been entered into on or before the date so notified.

(2) Every dealer to whom sub-section (1) does not apply shall be liable to pay tax under this Act with effect from three months after the commencement of the year immediately following that during which his gross turnover first exceeds the taxable quantum.

(3) Every dealer who has become liable to pay tax under this Act shall continue to be so liable until the expiry of three consecutive years, during each of which his gross turnover has failed to exceed the taxable quantum and such further period after the date of such expiry as may be prescribed, and on the expiry of this latter period his liability to pay tax shall cease.

(4) Every dealer whose liability to pay tax has ceased under the provisions of sub-section (3) shall again be liable to pay tax under this Act with effect from three months after the commencement of the year immediately following that during which his gross turnover again exceeds the taxable quantum.

(5) In this Act the expression "taxable quantum" means—

(a) in relation to any dealer who imports for sale any goods into Bengal, or himself manufactures or produces any goods for sale, 10,000 rupees; or

(b) in relation to particular classes of dealers not falling within clause (a), such sum as may be prescribed; or

(c) in relation to any other dealer, 50,000 rupees.

5. *Rate of tax.*—(1) The tax payable by a dealer under this Act shall be levied at the rate of one quarter of an anna in the rupee on his taxable turnover.

(2) In this Act the expression "taxable turnover" means that part of a dealer's gross turnover during any period which remains after deducting therefrom—

(a) his turnover during that period on—

(i) the sale of goods declared tax-free under section 6;

(ii) sales to a registered dealer of goods specified in the purchasing dealer's certificate of registration as being intended for resale by him, or for use by him in the manufacture of any goods for sale or in the execution of any contract, and on sales to a registered dealer of containers and other materials for the packing of such goods;

(iii) sales to the Indian Stores Department, the Supply Department of the Government of India, and any railway or water transport administration;

(iv) sales to any undertaking supplying electrical energy to the public under a licence or sanction granted or deemed to have been granted under the Indian Electricity Act, 1910, of goods for use by it in the generation or distribution of such energy;

(v) sales of goods which are shown to the satisfaction of the Commissioner to have been despatched by, or on behalf of, the dealer to an address outside Bengal;

(vi) such other sales as may be prescribed; and

(b) one per centum of the balance remaining after making the deductions allowed by sub-clauses (i) to (vi) of clause (a).

6. *Tax-free goods.*—(1) No tax shall be payable under this Act on the sale of goods specified in the first column of the Schedule, subject to

the conditions and exceptions, if any, set out in the corresponding entry in the second column thereof.

(2) The Provincial Government, after giving by notification in the *Official Gazette* not less than three months' notice of its intention so to do, may by like notification add to the Schedule, and thereupon the Schedule shall be deemed to be amended accordingly.

7. Registration of dealers.—(1) No dealer shall, while being liable to pay tax under this Act, carry on business as a dealer unless he has been registered and possesses a registration certificate.

(2) Every dealer required by sub-section (1) to be registered shall make application in such behalf in the prescribed manner to the prescribed authority.

(3) If the said authority is satisfied that an application for registration is in order, he shall in accordance with such rules as may be prescribed, register the applicant and grant him a certificate of registration in the prescribed form which shall specify the class or classes of goods for the purposes of sub-clause (ii) of clause (a) of sub-section (2) of section 5.

(4) The Commissioner may from time to time amend any certificate of registration in accordance with information furnished under section 16 or otherwise received.

(5) When any dealer has been convicted or has paid composition money under section 23, in respect of any contravention of sub-section (1) of this section, the Commissioner shall register such dealer and grant him a certificate of registration, and such registration shall take effect as if it had been made under sub-section (3) of this section on the dealer's application.

(6) When—

(a) any business in respect of which a certificate has been granted upon application made under sub-section (2) has been discontinued or transferred, or

(b) the gross turnover of any such business has during each of three consecutive years failed to exceed the taxable quantum, the Commissioner shall cancel the registration.

8. Voluntary registration.—(1) Any dealer whose gross turnover during a year exceeds 10,000 rupees may, notwithstanding that he may not be liable to pay tax under section 4, apply in the prescribed manner to the prescribed authority for registration under this Act.

(2) The provisions of sub-sections (3) and (4) and clause (a) of sub-section (6) of section 7 shall apply in respect of applications for registration under this section.

(3) Every dealer who has been registered upon application made under this section shall, for so long as his registration remains in force, be liable to pay tax under this Act.

(4) The registration of a dealer upon application made under this section shall be in force for a period of not less than three complete years and shall remain in force thereafter unless cancelled under the provisions of this Act.

Subject to the provisions of sub-section (4), a dealer registered upon application made under this section may apply in the prescribed manner not less than six months before the end of year to the authority which granted him his certificate of registration for the cancellation of such

registration to take effect at the end of the year in which the application for such cancellation is made; and the said authority shall, unless the dealer is liable to pay tax under section 4, cancel the registration accordingly.

9. *Lists of registered dealers to be published.*—The Provincial Government shall, as soon as may be after the commencement of this Act, publish in the *Official Gazette* a list of the names and addresses of registered dealers together with a description of the goods covered by their certificates of registration, and thereafter shall in like manner from time to time publish—

(a) such particulars of any dealer who is subsequently registered or whose registration is cancelled, as soon as may be after such registration or cancellation, and

(b) annually a consolidated list of modifications of the first list published under this section.

10. *Payment of tax and returns.*—(1) Tax payable under this Act shall be paid in the manner hereinafter provided at such intervals as may be prescribed.

(2) Such dealers as may be required so to do by the Commissioner by notice served in the prescribed manner and every registered dealer shall furnish such returns by such dates and to such authority as may be prescribed:

Provided that, if any dealer establishes to the satisfaction of the Commissioner that his average taxable turnover does not exceed ten per centum of his average gross turnover, the returns to be furnished by such dealer under this sub-section shall be annual returns.

(3) Before any registered dealer furnishes the returns required by sub-section (2), he shall, in the prescribed manner, pay into a Government Treasury or the Reserve Bank of India the full amount of tax due from him under this Act according to such returns, and shall furnish along with the returns a receipt from such Treasury or Bank showing the payment of such amount.

(4) If any dealer discovers any omission or other error in any return furnished by him, he may at any time before the date prescribed for the furnishing of the next return by him furnish a revised return, and if the revised return shows a greater amount of tax to be due than was shown in the original return, it shall be accompanied by a receipt showing payment in the manner provided in sub-section (3) of the extra amount.

11. *Assessment of tax.*—(1) If no returns are furnished by a registered dealer in respect of any period by the prescribed date, or if the Commissioner is not satisfied that the returns furnished are correct and complete, the Commissioner shall, within twelve months after the expiry of such period, after giving the dealer a reasonable opportunity of being heard, proceed in such manner as may be prescribed to assess to the best of his judgment the amount of tax due from the dealer.

(2) If upon information which has come into his possession, the Commissioner is satisfied that any dealer, who imports for sale any goods into Bengal or himself manufactures or produces any goods for sale, has been liable to pay tax under this Act in respect of any period and has nevertheless wilfully failed to apply for registration, the Commissioner shall, at any time within three calendar years from the commencement of this Act and thereafter within twelve months from the expiry of such period, after giving the dealer a reasonable opportunity of being heard, proceed in such manner as may be prescribed to assess to the best of his judgment the

amount of tax due from the dealer in respect of such period and all subsequent periods; and the Commissioner may direct that the dealer shall pay by way of penalty in addition to the amount of tax so assessed a sum not exceeding one and a half times that amount.

(3) The amount of tax—

(a) due where the returns are furnished without receipt showing full payment thereof, or

(b) assessed under sub-section (1), less the sum, if any, already paid by the dealer in respect of the said period, or

(c) assessed under sub-section (2), together with the penalty directed to be paid under that sub-section, shall be paid by the dealer into a Government Treasury or the Reserve Bank of India by such date as may be specified in a notice issued by the Commissioner for this purpose and the date to be so specified shall be not less than thirty days from the date of service of such notice :

Provided that the Commissioner may, in respect of any particular dealer and for reasons to be recorded in writing, extend the date of such payment or allow such dealer to pay the tax due and the penalty (if any) by instalments.

(4) Any amount of tax which remains unpaid after the date specified in the said notice shall be recoverable as an arrear of land-revenue.

(5) Any assessment made under this section shall be without prejudice to any prosecution instituted for an offence against this Act.

12. Refunds.—The Commissioner shall, in the prescribed manner, refund to a registered dealer applying in this behalf any amount of tax paid by such dealer in excess of the amount due from him under this Act, either by cash payment or, at the option of the dealer, by deduction of such excess from the amount of tax due in respect of any other period.

13. Accounts.—Every registered dealer or other dealer on whom a notice has been served to furnish returns under sub-section (2) of section 10, shall keep a true account of the value of goods bought and sold by him, and if the Commissioner considers that such account is not sufficiently clear and intelligible to enable him to make a proper check of the returns referred to in that sub-section, he may require such dealer by notice in writing to keep such accounts (including records of sales) as may be prescribed.

14. Production and inspection of accounts and documents, and search of premises.—The Commissioner may, subject to such conditions as may be prescribed, require any dealer to produce before him any accounts or documents, or to furnish any information, relating to the stocks of goods of, or purchases, sales and deliveries of goods by, the dealer as may be necessary for the purposes of this Act.

(2) All accounts, registers and documents relating to the stocks of goods of, or purchases, sales and deliveries of goods by, any dealer and all goods kept in any place of business of any dealer shall at all reasonable times be open to inspection by the Commissioner.

(3) If the Commissioner has reason to suspect that any dealer is attempting to evade payment of any tax under this Act, he may, for reasons to be recorded in writing, seize such accounts, registers or documents of the dealer as may be necessary, and shall grant a receipt for the same, and shall retain the same only for so long as may be necessary for examination thereof or for a prosecution.

(4) For the purposes of sub-section (2) or sub-section (3) the Commissioner may enter and search any place of business of any dealer.

15. Delegation of Commissioner's powers.—Subject to such restrictions and conditions as may be prescribed, the Commissioner may by order in writing delegate any of his powers under this Act [except those under section 18 and sub-section (2) of section 22] to any person appointed under section 3 to assist him.

16. Information to be furnished regarding changes of business.—If any dealer to whom the provisions of sub-section (2) of section 10 apply,—

(a) sells or otherwise disposes of his business or any part of his business or any place of business, or

(b) discontinues his business or changes his place of business or opens a new place of business, or

(c) changes the name or nature of his business
he shall within the prescribed time inform the prescribed authority accordingly; and if any such dealer dies, his legal representative shall in like manner inform the said authority.

17. Tax payable by transferee of business.—When the ownership of the business of a registered dealer is transferred, any tax payable in respect of such business remaining unpaid at the time of the transfer shall be payable by the transferee as if he was the registered dealer, and the transferee shall within thirty days of the transfer apply for registration under section 7.

18. Power to Commissioner to determine disputes.—If any question arises (otherwise than in a proceeding before a Court) whether or not for the purposes of this Act—

(a) any person or firm or any branch or department of any firm is a dealer, or

(b) any transaction is a sale or contract, or

(c) any particular goods purchased by a registered dealer are covered by his certificate of registration, or

(d) any tax is payable in respect of any particular sale or contract, or

(e) any goods or classes of goods should be specified in the certificate of registration of any dealer under sub-section (3) of section 7,
the Commissioner shall determine such question:

Provided that any such determination shall not affect the liability of any dealer under this Act in respect of any contract entered into or sale effected prior to such determination, unless the Commissioner is satisfied that the dealer has been wilfully evading or attempting to evade payment of tax in respect of any sale of, or contract for supply of, any goods to which such determination relates.

19. Bar to certain proceedings.—Save as is provided in section 21, no assessment made and no order passed under this Act or the rules made thereunder by the Commissioner or any person appointed under section 3 to assist him shall be called in question in any Civil Court, and save as is provided in section 20, no appeal or application for revision or review shall lie against any such assessment or order.

20. Appeal, revision and review.—(1) Within sixty days from the receipt of a notice issued under sub-section (3) of section 11, any dealer may in the prescribed manner appeal to the prescribed authority against such assessment:

Provided that no appeal shall be entertained by the said authority

unless he is satisfied that such amount of tax as the appellant may admit to be due from him has been paid.

(2) Subject to such rules of procedure as may be prescribed, the appellate authority, in disposing of any appeal under sub-section (1), may—

(a) confirm, reduce, enhance or annul the assessment, or;

(b) set aside the assessment and direct the assessing authority to make a fresh assessment after such further inquiry as may be directed.

(3) Subject to such rules as may be prescribed and for reasons to be recorded in writing, the Commissioner upon application or of his own motion may revise any order passed under this Act or the rules thereunder by a person appointed under section 3 to assist him, and subject as aforesaid, the Board of Revenue may, in like manner, revise any order passed by the Commissioner:

Provided that before rejecting any application for the revision of any such order the Commissioner or the Board of Revenue, as the case may be, shall consider it and shall record reasons for such rejection.

(4) Subject to such rules as may be prescribed, any order passed under this Act or the rules made thereunder by any person appointed under section 3 may be reviewed by the person passing it.

(5) Before any order is passed under this section which is likely to affect any person adversely, such person shall be given a reasonable opportunity of being heard.

21. Statement of case to High Court.—(1) Within sixty days from the passing by the Board of Revenue of any order under sub-section (3) of section 20 affecting any liability of any dealer to pay tax under this Act, such dealer may, by application in writing accompanied by a fee of one hundred rupees, require the Board to refer to the High Court any question of law arising out of such order.

(2) If, for reasons to be recorded in writing, the Board of Revenue refuses to make such reference, the applicant may, within thirty days of such refusal, either—

(a) withdraw his application (and if he does so, the fee paid shall be refunded), or

(b) apply to the High Court against such refusal.

(3) If upon the receipt of an application under clause (b) of sub-section (2), the High Court is not satisfied of the correctness of the Board's decision, it may require the Board to state the case and refer it, and on the receipt of such requisition, the Board shall state and refer the case accordingly.

(4) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, it may refer the case back to the Board of Revenue to make such additions thereto or alterations therein as the Court may direct in that behalf.

(5) The High Court upon the hearing of any such case shall decide the question of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded and shall send to the Board of Revenue a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Board shall dispose of the case accordingly.

(6) Where a reference is made to the High Court under this section, the costs (including the disposal of the fee) shall be in the discretion of the Court.

(7) The payment of the amount, if any, of tax due in accordance with the order of the Board of Revenue in respect of which an application has been made under sub-section (1) shall not be stayed pending the disposal of such application or any reference made in consequence thereof, but if such amount is reduced as the result of such reference, the excess tax paid shall be refunded in accordance with the provisions of section 12.

22. Offences and penalties.—(1) Whoever—

(a) carries on business as a dealer in contravention of sub-section (1) of section 7; or

(b) fails, without sufficient cause, to submit any return as required by sub-section (2) of section 10 or submits a false return; or

(c) being a registered dealer, falsely represents when purchasing any class of goods, that goods of such class are covered by his certificate of registration; or

(d) not being a registered dealer, falsely represents when purchasing goods that he is a registered dealer; or

(e) fails, when required so to do under section 13, to keep prescribed accounts or records of sales; or

(f) refuses to comply with any requirement made of him under sub-section (1) of section 14; or

(g) knowingly produces incorrect accounts, registers or documents, knowingly furnishes incorrect information; or

(h) obstructs any officer making an inspection or a search or a seizure under section 14; or

(i) neglects to furnish any information required by section 16; shall be punishable with fine not exceeding one thousand rupees, and when the offence is a continuing one, with a daily fine not exceeding fifty rupees during the period of the continuance of the offence.

(2) No Court shall take cognizance of any offence under this Act, or under the rules made thereunder except with the previous sanction of the Commissioner, and no Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any such offence.

(3) All offences punishable under this Act shall be cognisable and bailable.

23. Compounding of offences.—(1) Subject to such conditions as may be prescribed the Commissioner may accept from any person charged with an offence under sub-section (1) of section 22 or under any rules made under this Act, by way of composition of the offence, a sum not exceeding one thousand rupees or where the offence charged is under clause (a) or clause (b) of that sub-section, not exceeding double the amount of tax which would have been payable by the dealer had he complied with the provisions of this Act, whichever is greater.

(2) On payment of such sum as may be determined by the Commissioner under sub-section (1), the accused person shall be discharged and no further proceedings shall be taken against him in respect of the same offence.

24. Indemnity.—No suit, prosecution or other legal proceedings shall lie against any servant of the Crown for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

25. Returns, etc., to be confidential.—(1) All particulars contained in any statement made; return furnished or accounts or documents produced

in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act other than proceedings before a Criminal Court, shall, save as provided in sub-section (3), be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872, no Court shall, save as aforesaid, be entitled to require any servant of the Crown to produce before it any such statement, return, account, document or record or any part thereof, or to give evidence before it in respect thereof.

(2) If, save as provided in sub-section (3), any servant of the Crown discloses any of the particulars referred to in sub-section (1), he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine.

(3) Nothing in this section shall apply to the disclosure of any of the particulars referred to in sub-section (1) for the purposes of a prosecution under the Indian Penal Code in respect of any such statement, return, accounts, document or evidence, or for the purposes of a prosecution under this Act.

26. Power to make rules.—(1) The Provincial Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing, such rules may prescribe—

(a) the proportion referred to in sub-clause (ii) of clause (h) of section 2;

(b) the further period after the date of expiry of three consecutive years referred to in sub-section (3) of section 4;

(c) the taxable quantum for particular classes of dealers under clause (b) of sub-section (5) of section 4;

(d) the other sales, turnover in respect of which may be deducted from a dealer's gross turnover in computing his taxable turnover as defined in section 5;

(e) the authority to which applications for registration under section 7 or section 8 shall be made;

(f) the procedure for, and other matters incidental to, the registration of dealers and the granting of certificates of registration, and the form of such certificates under section 7 or section 8;

(g) the intervals at which, and the manner in which, the tax under this Act shall be payable under section 10;

(h) the returns to be furnished under sub-section (e) of section 10, and dates by which, and the authority to which, such returns shall be furnished;

(i) the date by which returns for any period are to be furnished and the procedure to be followed for assessment under section 11;

(j) the manner in which refunds under section 12 shall be made;

(k) the accounts and forms thereof required by section 13;

(l) the conditions under which the production of accounts or documents or the furnishing of information may be required under sub-section (1) of section 14;

(m) the restrictions and conditions subject to which the Commissioner may delegate his powers under section 15;

(n) the authority to which information shall be furnished under section 16;

(o) the manner in which, and the authority to which, appeals against assessment may be preferred under section 20 ;

(p) the procedure for, and other matters (including fees) incidental to, the disposal of appeals and applications for revisions and reviews under section 20 ;

(q) the conditions under which offences may be compounded under section 23 ;

(r) the manner in which, and the time within which, applications shall be made, information furnished, and notices served, under this Act ;

(s) the sacred books referred to in item 21 in the first column of the Schedule.

(3) In making any rule the Provincial Government may direct that a breach thereof shall be punishable with fine not exceeding five hundred rupees, and when the offence is a continuing one, with a daily fine not exceeding twenty-five rupees during the continuance of the offence.

THE SCHEDULE.

(See section 6.)

1	2
1. All cereals and pulses (including all forms of rice, raw or cooked) .	Except when sold in containers.
2. Flour (including <i>atta</i> , <i>sugi</i> and bran)	...
3. Bread	...
4. Meat which has not been cured or frozen	...
5. Fresh fish	...
6. Vegetables, green or dried	...
7. Cooked foods, other than cakes, pastries and sweetmeats	...
8. <i>Gur</i> , sugar and molasses	...
9. Salt	...
10. Mustard oil, rape oil and mixtures of mustard and rape oil	...
11. Milk	...
12. Livestock, including poultry	...
13. Agricultural implements	...
14. Fertilizers	...
15. Yarn	...
16. Hand-loom woven cloth	When sold by a dealer who does not sell any other kinds of cloth.
17. Kerosene oil	...
18. Tobacco for <i>hookah</i>	...
19. Matches	...
20. Quinine and febrifuge	...
21. Text-books approved for Primary Classes (I-IV) and such sacred books as may be prescribed.	...
22. Bullion and specie	...

THE SCHEDULE—*Concl'd.*

1	2
23. Gold ornaments manufactured from bullion or specie	When sold by the manufacturer who charges separately for the value of the gold and the cost of manufacture.
24. Coal and coke ...	...
25. Country liquor (including <i>tari</i> and <i>pachwai</i>), portable foreign liquor (including medicated wines), <i>ganja</i> , <i>exise</i> opium (excluding preparations of opium), <i>bharg</i> and <i>charas</i>	...
26 Water, but not aerated or mineral waters when sold in bottles or sealed containers	...
Electrical energy ...	...
Coal Gas ...	...
	When sold by a Gas Supply Company for consumption— (a) by Government or any local authority, or (b) in respect of any industrial undertaking (other than in residential or office premises), or (c) in any place declared by the Provincial Government to be exclusively used for public charity.
29. Motor spirit, that is to say, any liquid or admixture of liquids which is ordinarily used directly or indirectly as fuel for any form of motor vehicle or stationary internal combustion engine, and which has a flashing point below 76 degrees Fahrenheit	
30. Newspapers	
31. Raw hides and raw skins	

The Eastern Frontier Rifles (Bengal Battalion Amendment) Act, 1941.

The following Act of the Bengal Legislature has been assented to in His Majesty's name by the Governor [Vide Notification No. 1037L., dated the 5th September 1941, published at pages 81-82 of the Calcutta Gazette, Part III, dated the 1st July 1941]

Bengal Act VII of 1941.

[*Passed by the Bengal Legislature.*]

[Assent of the Governor was first published in the *Calcutta Gazette*, of the 11th September 1941.]

An Act further to amend the Eastern Frontier Rifles (Bengal Battalion) Act, 1920.

WHEREAS it is expedient further to amend the Eastern Frontier Rifles (Bengal Battalion) Act, 1920, in order to increase the period of enlistment of new entrants to the battalion from three to seven years;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Eastern Frontier Rifles (Bengal Battalion Amendment) Act, 1941.

2. *Amendment of section 4 of Bengal Act II of 1920.*—To sub-section (1) of section 4 of the Eastern Frontier Rifles (Bengal Battalion) Act, 1920, the following proviso shall be added, namely:—

"Provided that, in respect of a police officer, enlisted under this Act after the commencement of the Eastern Frontier Rifles (Bengal Battalion Amendment) Act, 1941, for the words 'three years' in the statement in the schedule the words 'seven years' shall be substituted."

The St. Thomas' School (Amendment) Act, 1941.

The following Act of the Bengal Legislature has been assented to by His Majesty's name by the Governor [Vide Notification No. 1091 of the 22nd September 1941, published at pages 83-84 of Part III of the *Calcutta Gazette*, dated 25th September 1941.]

Bengal Act VIII of 1941.

[*Passed by the Bengal Legislature.*]

[Assent of the Governor was first published in the *Calcutta Gazette*, of the 25th September 1941.]

An Act further to amend the St. Thomas' School Act, 1923.

WHEREAS it is expedient further to amend the St. Thomas' School Act, 1923, for the purposes and in the manner hereinafter appearing;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the St. Thomas' School (Amendment) Act, 1941.

2. *Amendment of section 2 of Bengal Act XII of 1923.*—In section 2 of the St. Thomas' School Act, 1923 (hereinafter referred to as the said Act)—

(1) for sub-section (2) the following sub-section shall be substituted, namely:—

"(2) The Governors shall at a meeting co-opt with themselves two teachers, of either sex, of St. Thomas' School to be elected for the purpose of such co-option by the teachers of that school in the manner prescribed by rules made under section 15, and may at a meeting co-opt such other persons, of either sex, not exceeding three in number, as they may consider necessary; and all persons co-opted under this sub-section shall be deemed to be Governors for the purposes of this Act;"

(2) after sub-section (3) the following sub-section shall be inserted, namely:—

"(3a) If the teachers of St. Thomas' School do not by such date as may be fixed by the Governors in this behalf, elect two teachers for the purpose of co-option under sub-section (2), the Governors shall at a meeting co-opt two persons of either sex from amongst the teachers of the said school and the persons so co-opted shall be deemed to be Governors as if they had been co-opted after having been duly elected under the said sub-section."

3. *Amendment of section 15.*—After clause (a) of section 15 of the said Act, the following clause shall be inserted, namely:—

"(aa) prescribing the manner in which the election referred to in sub-section (2) of section 2 shall be held;"

The Bengal Court of Wards (Amendment) Act, 1941.

The following Act of the Bengal Legislature has been assented to in His Majesty's name by the Governor-General [Vide Notification No. 48T.L., dated the 7th October 1941 published at pages 85-86 of Part III of the *Calcutta Gazette*, dated the 16th October 1941.]

Bengal Act IX of 1941.

[*Passed by the Bengal Legislature.*]

[Assent of the Governor-General was first published in the *Calcutta Gazette* of the 16th October 1941.]

An Act further to amend the Court of Wards Act, 1879.

WHEREAS it is expedient further to amend the Court of Wards Act, 1879, for the purposes and in the manner hereinafter appearing;

It is hereby enacted as follows:—

1. *Short title.*—This Act may be called the Bengal Court of Wards (Amendment) Act, 1941.

Notes.

Object—"The High Court of Calcutta at the hearing by a Special Bench of the case of Anath Nath Bose *vs.* Maharaja Srischandra Nandy decided on the 4th of March 1941 that Section 10C of the Court of Wards Act, 1879, had no application to the High Court as 'the expression "Civil Court" appearing in the different sections of the Court of Wards Act, 1879, means a Civil Court other than the High Court. The effect of this decision has been to take away all protection from the Wards' estates in respect of decrees or orders passed against them by the Original or Appellate Side of the High Court—a position which will largely frustrate the object for which the Legislature enacted Section 10C of the Court of Wards Act, 1879, in 1936.

The object of this Bill is to make the provisions of Section 10C of the Act, applicable in respect of execution of decrees or orders passed by the High Court with retrospective effect in regard to all pending suits or proceedings including proceedings in execution". [Vide Statement of Objects and Reasons, printed at page 192 of Part IV-A of the *Calcutta Gazette*, 1941.]

2. *Amendment of section 3 of Bengal Act IX of 1879.*—In section 3 of the Court of Wards Act, 1879 (hereinafter referred to as the said Act), before the definition of "Collector" the following definition shall be inserted, namely:—

"Civil Court" includes the High Court in Calcutta in the exercise of its ordinary and extraordinary original civil jurisdiction or its civil appellate or revisional jurisdiction;"

3. *Repeal of section 56.*—Section 56 of the said Act is hereby repealed.

4. *Retrospective effect.*—The amendments made by sections 2 and 3 shall have effect in respect of all suits or proceedings including proceedings in execution which are pending on the date of commencement of this Act.

86 THE BENGAL PATNI TALUKS REGULATION (AMENDMENT)
ACT, 1941.

The Bengal Patni Taluks Regulation (Amendment) Act, 1941.

The following Act of the Bengal Legislature has been assented to in His Majesty's name by the Governor. [Vide Notification No. 56 T. L. dated the 18th October 1941, published at pages 87-88 of Part III of the *Calcutta Gazette*, dated the 23rd October 1941.]

Bengal Act X of 1941.

[Passed by the Bengal Legislature.]

[Assent of the Governor was first published in the *Calcutta Gazette* of the 23rd October 1941.]

An Act further to amend the Bengal Patni Taluks Regulation, 1819.

WHEREAS it is expedient further to amend the Bengal Patni Taluks Regulation, 1819, for the purpose and in the manner hereinafter appearing:

It is hereby enacted as follows:—

1. **Short title.**—This may be called the Bengal Patni Taluks Regulation (Amendment) Act, 1941.

2. **Amendment of section 3 of Bengal Regulation VIII of 1819.**—After clause Third of section 3 of the Bengal Patni Taluks Regulation, 1819, the following clause shall be added, namely:—

Fourth. Subject to the provision of section 14A of this Regulation an arrear of rent shall, notwithstanding anything contained in any other section of this Regulation or in any engagement between the zamindar and the talukdar, whether entered into before or after the commencement of the Bengal Patni Taluks Regulation (Amendment) Act, 1941, bear simple interest at the rate of six and a quarter per centum per annum from the expiration of that quarter of the agricultural year in which the instalment falls due to the date of payment or of sale of the tenure under this Regulation or of the institution of a suit for arrears of rent, whichever is earlier.

Explanation.—The term 'agricultural year' has the same meaning as in clause (1) of section 3 of the Bengal Tenancy Act, 1885."

Notifications,
High Court of Judicature at Fort William in Bengal;
1940-41.

[Pages 1 to 11.]

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Notifications,

High Court of Judicature at Fort William in Bengal.

Published in the "*Calcutta Gazette*", Part I, dated the 18th July 1940.

Prize Court Rules.

Rule framed in accordance with rule 2 (b) of Order XLIII of the Schedule to the Order in Council, dated 2nd September 1939, and the relevant Schedule of Fees to be taken in Prize Matters by the High Court of Judicature at Fort William in Bengal and its Officers having been confirmed by Order in Council, dated the 4th day of June 1940, are hereby published for information:—

"The fees to be taken in prize matters in this Court by the Court and its Officers shall be those set out in the Schedule hereto. The fees mentioned in items 39 to 47 inclusive of the Schedule (which relate to various fees in the Marshal's office) shall be paid in cash, while all other fees shall be taken by means of stamps. Stamps shall be of the same nature and design and shall be affixed and cancelled in the same manner as stamps used for the taking of fees in respect of the same or similar items in the ordinary business of the Court".

SCHEDULE.

(Appendix B.)

Fees to be taken in Prize Matters by the Court and its Officers.

Summons, Notices, Commissions and Warrants.

	Rs.	A.	P.
1. On sealing a writ for commencement of a cause ...	25	0	0
2. On sealing an amended writ for commencement of cause ...	5	0	0
3. On sealing a subpoena, for each witness ...	2	0	0
4. On sealing or issuing a summons ...	5	0	0
5. On filing a notice to have a reference to the Registrar placed in the list for hearing ...	15	0	0
6. On a notice for the issue of any instrument under the seal of the Court ...	15	0	0
7. On sealing or issuing a commission to take oaths or affidavits in prize matters (to be paid by the applicant), for each person appointed thereby ...	75	0	0
8. On every other commission or letter of request ...	30	0	0
9. On filing a notice to enter or withdraw a caveat ...	5	0	0
<i>Appearances.</i>			
10. On entering an appearance or amending the same for each person ...	2	0	0
<i>Copies.</i>			
11. On a copy of a written deposition of a witness to enable a party to print the same, for each folio ...	0	4	

	Rs.	A.	P.
12. On examining a written or printed copy and marking or sealing same as an office copy, for each folio ...	0	2	0
13. On making a copy and marking same as an office copy, for each folio ...	0	8	0
14. On a copy in a foreign language—The actual cost.			
15. On a copy of a plan, map, section, drawing, photograph, or diagram—The actual cost.			
16. On a printed copy of an order, not being an office or certified copy, for each folio ...	0	2	0
<i>Attendances.</i>			
17. On any application, with or without a subpoena, for any officer to attend as a witness, or to produce records or documents to be given in evidence (in addition to the reasonable expenses of the officer), for each day or part of a day he shall necessarily be absent from his office ...	30	0	0
The officer may require a deposit of stamps on account of any further fees, and a deposit of money on account of any further expenses which may probably become payable beyond the amount paid for fees and expenses on the application, and the officer or his clerk taking such deposit shall thereupon make a memorandum thereof on the application.			
<i>Oaths, etc.</i>			
18. On swearing or affirming an affidavit or making a declaration, for each person making the same ...	2	0	0
19. And in addition thereto for each exhibit therein referred to and required to be marked ...	1	0	0
<i>Filing.</i>			
20. For every instrument or document (other than an exhibit, or any instrument or document previously issued from the Registry or the Marshal's office) unless otherwise provided ...	5	0	0
21. On an application to search for an appearance or an affidavit, and inspecting the same ...	1	0	0
22. On an application to search an index, and inspect a pleading, judgment, decree, order, minute or other record, unless otherwise expressly provided for by any relevant law or this order, for each hour or part of an hour occupied ...	2	0	0
23. Not exceeding one day ...	10	0	0
<i>Examination of Witnesses.</i>			
24. On the issue of an order for an examination to be taken before the Judge, Registrar, or examiner, or for letters of request ..	5	0	0
25. For examining witnesses, except by the Judge or Registrar, viva voce, per day or part of a day ...	From		
	32	0	0
	to		
	64	0	0

Rs. A. P.

26. On an examination of witness by any examiner at a greater distance than three miles from the Registry, a reasonable sum for travelling and other expenses in addition.

The Officer may require a deposit of stamps on account of fees and a deposit of money on account of expenses which may probably become payable beyond any amount paid for fees and expenses upon the examination, and the Officer or his clerk, taking such deposit shall thereupon make a memorandum thereof and deliver the same to the party making the deposit.

The officer may also require an undertaking, in writing, to pay any further fees and expenses which may become payable beyond the amount so paid and deposited.

27. For the examination of witnesses by the Judge or Registrar, whether by interpretation or not, for each witness ...

15 0 0

28. For preparing affidavits as to ship papers (aircraft papers), for every folio ...

2 0 0

29. For sorting and numbering ship papers (aircraft papers) ...

10 0 0

Hearing.

30. On entering or setting down, or re-entering or re-setting down any cause or matter for hearing ...

30 0 0

31. On writing for the attendance of assessors on the hearing ...

10 0 0

32. On setting down any petition or a reference ...

10 0 0

Judgments, Decrees and Orders.

On drawing up and entering decrees and orders—

33. If made in Court on the hearing of a cause, or on the hearing of a petition ...

30 0 0

34. On any other order including a consent or agreement filed pursuant to Order XXIII, and filing same ...

10 0 0

35. On a memorandum to enter an order nunc pro tunc ...

5 0 0

On References before a Registrar.

36. On any reference to the Registrar, including examination of witnesses, if any, having regard to the nature and importance of the accounts and other matters, and to the time occupied ...

From

16 0 0

to

240 0 0

37. If the reference occupies more than one day, for each additional day or part thereof a further fee not exceeding ...

240 0 0

38. If the attendance of one or more merchants is required, for each merchant the same fees as to

the Registrar

Rs. A. P.

... From
16 0 0
to
240 0 0

- In cases of great intricacy, or very large amount, occupying more than one full day, larger fees may be taken.

The fees Nos. 36 to 38. inclusive, shall be paid in the first instance by the party setting down the reference for hearing, as hereinafter provided:

To the notice mentioned in Order XVII, Rule 3, the party setting down shall affix the stamp for the reference, and, if the Registrar shall so require, a deposit in stamps to an amount which in the opinion of the Registrar will cover the reference fees. If any further amount becomes due in respect of the proceedings, such amount shall be paid by the said party on the report of the result of the reference, or if no report is made, on the completion of the proceedings on the reference, or if not completed, a due proportion shall be paid on so much of the proceedings as shall have taken place, the amount to be fixed by the Registrar. Such further amounts shall be paid by stamps impressed upon or affixed to a memorandum stating on what account such fees are paid.

In the Marshal's Office.

- | | | | | |
|---|-----|----|---|---|
| 39. On the execution of a warrant or on taking possession of a ship (aircraft) in pursuance of section 16 of the Naval Prize Act | ... | 30 | 0 | 0 |
| 40. On the execution of an attachment, for every person attached | ... | 15 | 0 | 0 |
| 41. On the execution of any decree, order, commission, or other instrument, other than those herein provided for, which is required to be executed by a marshal | ... | 15 | 0 | 0 |
| 42. On attending, appointing, and swearing or affirming appraisers | ... | 15 | 0 | 0 |
| 43. On delivering up a ship (aircraft) or goods to a purchaser agreeably to the inventory | ... | 30 | 0 | 0 |
| 44. On attending the unlivery of cargo, or sale or removal of a ship (aircraft) or goods, per day | ... | 30 | 0 | 0 |
| 45. On retaining possession of a ship (aircraft) with or without cargo, the expenses per day in respect of a shipkeeper (aircraft ke-per). | | | | |
| The Marshall shall be entitled to his reasonable expenses for travelling, board, and maintenance, in addition to the above fees. | | | | |
| 46. On the sale of any ship (aircraft) or goods sold pursuant to a decree or order of the Court, for every Rs. 1,500 or fraction of Rs. 1,500 gross | | | | |

		Rs.	A.	P.
	proceeds realised	15	0	0
47.	On the release of any ship (aircraft) goods, or person from arrest	30	0	0
	<i>Taxation of Costs.</i>			
48.	On taxing a bill of costs where the amount allowed does not exceed Rs. 60	2	0	0
49.	Where the amount exceeds Rs 60 for every Rs. 30 or a fraction thereof	1	0	0
	<i>On Proceedings in the office of the Registrar or Accountant-General.</i>			
50.	On a certificate of the amount and description of any money, funds, or securities, including the request therefor	2	0	0
51.	On a transcript of an account for each opening, including the request therefor	2	0	0
52.	On a request to the Registrar or Accountant-General, or other official for any of the following purposes: paying, lodging, transferring, or depositing money, funds, or securities in Court without an order, or money in addition to the amount directed by an order to be paid in; paying out of Court any money without an order or a certificate of a taxing officer; information in writing in respect of any money, funds, or securities, or any transaction in the office	2	0	0
53.	On a request for information respecting any money, funds, or securities to the credit of any cause or matter contained in any list prepared by the Registrar or Accountant-General of causes and matters to the credit of which any money, funds, or securities have not been dealt with during 15 years	2	0	0
54.	On preparing a power of attorney	5	0	0
	<i>Miscellaneous.</i>			
55.	On a fiat of a Judge	5	0	0
56.	On signing, settling, or approving an advertisement	10	0	0
57.	On taking a recognisance or bond whether one or more than one recognisor or obligor, and whether entered into by all at one time or not	10	0	0
58.	On assignment of a bond	5	0	0
59.	By a commissioner on taking bail	16	0	0
60.	On a commitment	5	0	0
61.	On registering in the Court a power of attorney for a King's ship generally, and a copy thereof for the Accountant-General of the Navy	25	0	0
62.	On registering same specially	10	0	0
63.	On taking accounts by the Registrar in naval prize matters	5	0	0
64.	On an inspection of the Register of Bail Bonds	1	0	0

Published in the "*Calcutta Gazette*," Part I, dated the 5th December 1940.

No. 10403 R. O.—30th November 1940.—The following Rule amending the rules as to the qualification, admission, certificates, etc., of Pleaders and Mukhtars in Courts subordinate to the High Court, having been made by the High Court of Judicature at Fort William in Bengal under section 6 of the Legal Practitioners Act, 1879 (XVIII of 1879), is published for general information by order of the High Court:—

Rule.

• *Number* Rule 946, page 375, Civil Rules and Orders, Volume I, as clause (1) and insert the following as clause (2):—

"(2) Where in any case an applicant for enrolment as a pleader or mukhtar, after having paid the prescribed fee, is not enrolled for any reason, the fee paid by him may be refunded under orders of the Registrar, High Court, Appellate Side, on a written application made to him in this behalf".

Published in the "*Calcutta Gazette*," Part I, dated the 26th December 1940.

No. 10904 R. O.—18th December 1940.—The following Rule amending Note 2 to Rule 680 (2) of the Civil Rules and Orders, Volume I, having been framed by the High Court of Judicature at Fort William in Bengal in the exercise of the power vested in it by Section 20 of the Court-fees Act, 1870 (VII of 1870), and confirmed by the Provincial Governments of Bengal and Assam, is published for general information:—

Rule.

• In Note 2 to Rule 680 (2), page 271, Civil Rules and Orders, Volume I—

(a) Add the following proviso to clause (ii) "Provided that the poundage fee may be deducted from the earnest money or the purchase money, as the case may be, by the auction purchaser, not being the execution creditor, before depositing the latter in Court".

(b) Cancel clause (iv) and substitute therefor the following:—

"(iv) In cases in which several properties at a sale in satisfaction of a decree are purchased by one person or jointly by a set of persons, only one poundage fee calculated according to the sale prescribed in clause (iii) above, should be levied. But if the properties are purchased severally or in lots by different purchasers, the poundage fee shall be levied, according to the prescribed scale, on the total value of the properties bought by each purchaser.

(*Illustration.*—If 11 properties are sold, 5 to A, 5 to B and 1 to C, the poundage fee should be calculated for A's group on the total value of the properties bought by him and similarly for B. The poundage fee on C's purchase would be calculated on the value of the single property purchased by him".)

Published in the "*Calcutta Gazette*," Part I, dated the 9th January 1941.

No. 13G.—3rd January 1941.—The following amendments, which have been made by the High Court of Judicature at Fort William in Bengal, in the "Rules of the High Court, Appellate Side, Calcutta (Seventh Edition), 1936", are published for general information:—

Amendment.

I. Page 34, Rule 33A (Slip), Chapter V—

Add the following to the rule:—
"notice whereof shall be given in the manner prescribed in Rule 33 (a) above".

II. Page 187, Appendix I, Form No. 14 (Civil)—

Substitute the following for the Form—

"Form No. 14 (Civil)

Rules 33 and 33A, Chapter V.

The following First/Second appeals from Orders/Decrees

Cross-Objections

have been registered on ...19....:—

Serial No.	Appeal No. and year.	Name of first Appellant.	Name of Appellant's Advocate.
		Cross-Objector.	Cross-Objector's Advocate.
1	2	3	4

High Court, Appellate Side,

Calcutta;

Superintendent F. A. Section.

S. A.

The

19

No. 25G.—3rd January 1941.—The following amendments, which have been made by the High Court of Judicature at Fort William in Bengal, in the "Rules of the High Court, Appellate Side, Calcutta (Seventh Edition), 1936", are published for general information:—

Amendments.

Pages 7-8, Rule 1, Chapter II—

In the Schedule sub-joined to the rule—

(1) For "Rupees 1,000" occurring in the first line of clause (2) substitute "Rupees 2,000".

(2) omit the words "and applications for revision under section 115 Civil Procedure Code, in cases up to that value and all Rules granted on such applications," from clause (2).

(3) Add the following as clause (3) before the Note appearing under clause (2), namely,—

"(3) Applications for revision under section 115, Civil Procedure Code, against all orders of Munsifs, and against the orders of other Judges up to the value of Rupees 2,000 and all rules granted on such applications".

(4) For "Rupees 1,000" wherever it occurs in clauses (i), (ii) and (iii) of clause (4) substitute "Rupees 2,000".

(5) Insert the words "and all applications relating thereto" at the end of clauses (i), (ii) and (iii) of clause (4).

(6) Re-number clauses (3) to (6) as clauses (4) to (7).

Published in the "Calcutta Gazette", Part I, dated the 23rd January, 1941.

No. 458G.—17th January 1941.—The following amendments which have been made by the High Court of Judicature at Fort William in Bengal in the "Rules of the High Court, Appellate Side, 1936 (Seventh Edition)", are published for general information. The new rule 58A, hereinafter appearing, will come into force on the 1st February 1941:—

Amendments.

Page 41, Chapter V, Part II—

(i) *Cancel* rules 58A and 58B;

(ii) *Insert* the following as rule 58A :—

"58A. In every judgment, decree or final order to which the provisions of section 205 of the Government of India Act, 1935, apply, it shall be recorded whether a certificate under that section is granted or withheld".

Published in the "*Calcutta Gazette*", Part I, dated the 30th January 1941.
Calcutta, the 20th January 1941.

It is ordered by the High Court of Judicature at Fort William in Bengal that with effect from the 1st day of February 1941 the rules 33 and 36 of Chapter XVI of the Rules of the High Court, Original Side, 1914 (4th Edition), be rescinded and that in lieu thereof the following rule be adopted:—

35 In every judgment, decree or final order, to which the provisions of section 205 of the Government of India Act, 1935, apply, it shall be recorded whether a Certificate under that section is granted or withheld.

It is ordered by the High Court of Judicature at Fort William in Bengal that with effect from the 1st day of February 1941 the following amendments be made in rule 241 of the rules under the Indian Companies Act set out in Appendix No. 7 of the Rules of the High Court Original Side, 1914 (4th Edition):—

Head note.—After "proceedings" substitute "in which a Company in liquidation, by or under the supervision of the Court, is a party" in lieu of the existing words.

Line 1.—After "order" insert "by the High Court".

Published in the "*Calcutta Gazette*," Part I, dated the 27th February 1941.
Calcutta, the 24th February 1941.

It is ordered by the High Court of Judicature at Fort William in Bengal that with effect from the date of this publication in the *Calcutta Gazette* the following amendments be effected in Chapter XXVII and Appendix J, Appendices (Part I) of the Rules of the High Court, Original Side, 1914 (4th Edition):—

Chapter XXVII.

The present rules 3, 9, 12, 13, 21 and 22 be repealed and in lieu thereof the following rules be substituted.—

Rule 3. Every such sale shall be to the best purchaser that can be got for the same, provided the Registrar shall consider that a sufficient sum has been offered, or in suits governed by the Bengal Money-Lenders Act X of 1940 provided the price to be specified under section 35 of that Act has been reached, or the decree-holder consents in writing to forego so much of the amount decreed as is equal to the difference between the highest amount bid and the price to specified.

Rule 9. The notification shall specify the time and place of sale, and shall contain description and particulars of the property, together with a statement that it is to be sold by or with the approbation of the Registrar pursuant to a decree or order of the Court, and of the manner in which it is proposed to lot the same. Where the property, or any portion of it, is to be sold subject to an incumbrance, the nature and

amount of such incumbrance shall, as far as practicable, be also stated. In suits governed by the Bengal Money-Lenders Act X of 1940 the notification shall specify the extent of the property to be sold and the price thereof as calculated under the provisions of Section 35 of such Act.

Rule 12. Where a sale is ordered at the instance of a subsequent incumbrancer or of a mortgagor, or where a party having the carriage of the proceedings has obtained leave to bid, unless otherwise ordered, or unless dispensed with by the proper parties, a reserved price shall be fixed by the Registrar. The Registrar may also in any other case, in which it may be deemed necessary or desirable, fix a reserved price, provided that in suits governed by the Bengal Money-Lenders Act X of 1940 the reserved price shall be the price specified in accordance with Section 35 of that Act.

Rule 13. For the purpose of fixing a reserved price or a price to be specified under the provisions of the Bengal Money-Lenders Act the Registrar may, on notice to the parties, direct a valuation or a survey to be made of the property to be sold. The same shall be made by a surveyor or other competent person, to be appointed by the Registrar, who shall certify the result under his signature and shall deliver or transmit such certificate to the Registrar under a sealed cover, with the words on the cover, "Private, and to be opened only by the Registrar". The Registrar may, where he shall think fit, require the certificate to be verified by an affidavit or affirmation of the valuer. In that case the certificate shall be referred to without being annexed to, or filed with the affidavit or affirmation, which shall be so prepared as not to disclose the contents of the certificate. On the reserved price or price to be so specified as aforesaid being fixed, the certificate shall be put up in a sealed cover and kept with the proceedings.

Rule 21. Where there is no bid, or where the highest bid is below the reserved price (if any) or be deemed insufficient by the Registrar or in cases governed by the Bengal Money-Lenders Act X of 1940 where the price specified has not been reached or the decree-holder has not consented in writing to forego so much of the amount decreed as is equal to the difference between the highest amount bid and the price so specified, the Registrar shall postpone the sale, and record the reason for such postponement in his note-book.

Provided that where the highest bid is below the reserved price and where for any reason to be recorded by him the Registrar is of opinion that the same should be accepted, he may accept it subject to confirmation by a Judge.

Rule 22. Where the highest bid is equal to or higher than the reserved price (if any), or is deemed sufficient by the Registrar or where, in sales held in pursuance of decrees governed by the Bengal Money-Lenders Act X of 1940, the price to be specified has been reached, or the provisions of the proviso to Section 35 of the Act have been applied, the Registrar shall, subject to the provisions of rule 23, make an entry in the note book to the following effect:—

"I declare A. B. to be the purchaser of the property comprised in lot for the sum of Rs. adding in a case within the proviso to rule 21 the words "subject to confirmation by a Judge".

Appendix J.

For condition 2 to form No. 1, the following be substituted:—

2. The sale is subject to a reserved bidding/specified price which has been fixed by the Registrar.

Published in the "Calcutta Gazette", Part I, dated the 10th April 1941: Calcutta, the 7th April 1941.

It is ordered by the High Court of Judicature at Fort William in Bengal that, with effect from the 1st day of May 1941, rules 7 and 8 of the rules under the Indian Income Tax Acts set out in Appendix No. 1, Appendices (Part II) and rule 22 of Chapter I of the Rules of the High Court, Original Side, 1914 (4th Edition), be repealed and in lieu thereof the following rules be adopted:—

Appendix No. 1.

7. Advocates not entitled to practise on the Original Side and Advocates so entitled under Chapter I, rule 2 (iii), (iv) and (vi) and Attorneys, shall be entitled to appear and act in all matters governed by these rules.

8. Costs in all Income Tax matters are within the discretion of the Court, and will be paid by such party or parties as the Court may order. Unless otherwise ordered, they will be taxed according to the scale on the Original Side. Costs of and incidental to a reference will be taxed in the same manner as of a hearing of an appeal from a decree of the Original Side. Advocates who appear and plead, whether instructed by another advocate or an Attorney, shall be allowed the same fees as are allowed to Counsel under rules 32 and 33 of Chapter XXXVI of the Rules of the Original Side, (including fees to second and third Advocates, if so allowed by the Court). If such costs are ordered to be paid by the Commissioner to the assessee on a reference made under sub-sections (2) or (3) of section 66 of the said Act, the Taxing Officer shall, in addition, allow the assessee any fees paid by him under the said sub-section (2) on the application for the reference.

The costs of an Advocate or Attorney appearing and acting, or of an Advocate both pleading and acting, shall be taxed as far as possible according to the scale on the Original Side. In cases where no detailed bill is filed, or in which the Taxing Officer finds such scale difficult to apply, he may allow such a lump sum in lieu of taxed costs as may appear to him to be fair and reasonable.

An Advocate both pleading and acting shall be entitled to fees for appearing as such Advocate only and not, in addition, to any fees that would have been payable to him for acting and instructing another Advocate.

Chapter 1.

22. Persons entitled to appear and plead in the Court in the exercise of its Original Jurisdiction shall, in all respects, conform to the practice of, and shall be subject to, the same obligations and rules of professional etiquette where by Advocates practising on the Original Side of the Court prior to the 1st day of July 1928, were governed, so that no such person shall be entitled to act on the Original Side of the High Court. Provided that nothing in this Chapter shall preclude an Advocate who, prior to the 15th day of November 1940, has been admitted to appear and plead on the Original Side under the provisions of rules 2 (iii), (iv), (v) or (vi), nor any Advocate who may be admitted after the 15th day of November 1940, under the provisions of the same rules as amended, from acting in any jurisdiction other than the Original Jurisdiction of the High Court and on appeal therefrom.

Published in the "*Calcutta Gazette*", Part I, dated the 5th June 1941.

No. 4040G.—29th May 1941.—The following rule amending the provisions of the First Schedule to the Code of Civil Procedure, 1908, having been framed by the High Court of Judicature at Fort William in Bengal, in exercise of the power vested in it under section 122 of the Code, and approved by the Government of the Province under section 126 of the Code, is published for general information. The rule will come into force from the 1st July 1941 :—

Rule.

I. *Insert* the words "at the identification of the decree-holder or his agent" *after* the words "by actual seizure" in rule 43, Order XXI ;

II. *Insert* the words "at the identification of the decree-holder or his agent" *after* the words "attachment shall be made" in rule 44, Order XXI ;

III. For clause (a), rule 3, Order XXIA, *substitute* the following:—

"(a) in the charge of the decree-holder or his agent, or of the judgment-debtor, or of some other person, provided that the decree-holder or his agent or the judgment-debtor or other person enters into a bond in Form No. 15-A of Appendix E to this Schedule, with one or more sureties, to produce the attached property when called for and to be liable for any loss which the owner of the property attached may suffer due to wilful negligence of the bounden, or";

IV. In Form No. 15-A, Appendix E to the First Schedule, *insert* the words "any loss which the owner of the property/livestock may suffer due to wilful negligence of the bounden" *after* the words "duty account for" in the third paragraph of the Form.

Published in the "*Calcutta Gazette*," Part I, dated the 24th July 1941.
Calcutta, the 15th July 1941.

It is ordered by the High Court of Judicature at Fort William in Bengal that with effect from the 1st day of August 1941 the following amendments be made to item 37 of the Table of Costs subsequent to Preliminary Decree in Suits for Sale under rule 100 of Chapter XXXVI of the Rules of the High Court, Original Side, 1914 (4th Edition):—

In item 37, substitute the figure "100" for the figure "50" appearing against the words "charges for advertising not exceeding".

At the end of the Note appearing below item 37, substitute the figure "100" for the figure "50".

Published in the "*Calcutta Gazette*," Part I, dated the 31st July 1941.

No. 6149G.—26th July 1941.—The following Rule amending the provisions of the First Schedule to the Code of Civil Procedure, 1908, having been framed by the High Court of Judicature at Fort William in Bengal, in exercise of the power vested in it under section 122 of the Code, and approved by the Government of the Province under section 126 of the Code, is published for general information :—

Rule.

Add the following to Rule 54 (2) of Order XXI :—

"and also, where the property is situated within cantonment limits, in the office of the local Cantonment Board and the Military Estates Officer concerned."

Notifications, Bengal Government, 1940-41.

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Notifications, Bengal Government.

Published in the "Calcutta Gazette", Part I, dated the 28th November 1940.
JUDICIAL AND LEGISLATIVE DEPARTMENTS.

No. 3806J.—19th November 1940.—In exercise of the powers conferred by section 30 of the **Official Trustee's Act, 1913** (II of 1913), the Governor is pleased to make the following amendments in the Official Trustee's (Bengal) Rules, published under this department notification No. 5422J., dated the 21st June 1938, namely:—

Amendments.

1. In rule 14(7) of the said rules, for the figure "8" substitute the figure "3".

2. In rule 15 of the said rules, for the word "Bank" substitute the word "~~Reserve~~ Bank of India."

3. In rule 22 of the said rules—

(a) after the word "amounts" in the second place where it occurs add the words "if more than one"; and

(b) in the proviso for the word and figure "section 52" substitute the word and figure "section 23".

4. In rules 23 and 24 of the said rules—

(a) for the word "trusts" wherever it occurs, substitute the words "trusts or estates"; and

(b) for the word "trusts" wherever it occurs, substitute the words "trust or estate".

5. In rule 30 of the said rules,—

(a) for the word "Bank" substitute the words "Reserve Bank of India"; and

(b) in the marginal note for the word and figure "section 22" substitute the word and figure "section 23".

6. In the sub-heading in part "B" of Schedule I to the said rules, under the heading, Capital fees, omit the words and figure "or under section 27 of the Administrator-General's Act" and at the end of the said Part "B" add the following provisos, namely:—

"(a) provided that where the Official Trustee has, under the provisions of section 27 of the Administrator-General's Act, 1913, been appointed the trustee of trusts created under a will of which the Administrator-General has obtained Probate or Letters of Administration, the Official Trustee shall not charge any capital commission fee for acting as such trustee, if the Administrator-General has charged his capital commission fee for administering the estate:

(b) provided also that where the Official Trustee has, under the provisions of section 11 of the Act, been appointed by the surviving trustee or by the continuing trustees of a deceased person's estate after the administration of the said estate has been completed by them either in the capacity of executors or as administrators thereof and of which trustees the Administrator-General was one, the Official Trustee shall not charge any capital

commission fee in connection with his administration of those remaining assets :

(c) provided further that where the Official Trustee has, under the provisions of section 12 of the Act, been appointed by the Administrator-General in his capacity either as a sole executor or a sole administrator or as one of several executors or administrators of a deceased person's estate the trustee of the legacy or share to which an infant or lunatic is entitled in the assets of the estate of the said deceased person the Official Trustee shall not charge any capital commission fee."

7. In Schedule II to the said rules,—

(a) for the brackets and words and figure "(see Rule 16)", substitute the brackets, words and figure "(see Rule 17)";

(b) in item 4(ii)(a) for the words "Bank or public Debt Office" substitute the words "Reserve Bank of India"; and

(c) in item 4(i)(d) for the word "Bank" substitute the words "Reserve Bank of India."

No. 3807J.—19th November 1940.—In exercise of the powers conferred by section 50 of the **Administrator-General's Act, 1913** (III of 1913), the Governor is pleased to make the following amendments in the Administrator-General's (Bengal) Rules, published under this department notification No. 5421J., dated the 21st June 1938, namely :—

Amendments.

1. In rule 17(7) of the said rules, for the figure "8" substitute "3".

2. In rule 18 of the said rules, for the word "Bank" substitute the words "Reserve Bank of India".

3. In rule 25 of the said rules, after the word "is equally indivisible" insert the following :—

"Should any further assets be received to the credit of an estate in which such a transfer has been made, and such further assets, together with the amount or amounts, if more than one, so transferred to this account be in the aggregate capable of division amongst the beneficiaries or creditors entitled thereto, the amount or amounts so transferred to this account shall be re-transferred to the credit of the general account of the trust or estate concerned which shall be reopened, and a further distribution of such assets shall then be made."

4. In rule 33 of the said rules, for the word "Bank" substitute the words "Reserve Bank of India".

5. In rule 38 of the said rules, for the word and figure "Schedule IV" substitute the word and figure "Schedule III".

6. In Schedule II to the said rules—

(a) for the brackets, words and figure "(see Rule 21)", substitute the brackets, words and figure "(see Rule 20)";

(b) in item 4(f) (ii) for the words "Bank or Public Debt Office" substitute the words "Reserve Bank of India"; and

(c) in item 4(f)(iv) for the word "Bank" substitute the words "Reserve Bank of India".

7. After Schedule II to the said rules, add the following :—

Schedule III.

(See rule 38.)

Report on estates dealt with during the half-year ending (excluding estates previously included in schedules).

Name of estate.	Date of death.	Intestate or testate.	Date of grant.	Date of taking charge under section 32.	Date of certificate if any.	Amount of assets.	Approximate amount of liabilities.	Amount of commission earned.	Remarks showing manner of disposal.

DEPARTMENT OF COMMERCE AND LABOUR..

No. 3670Com.—18th November 1940.—In exercise of the power conferred by sub-section (2) of section 26 of the **Payment of Wages Act, 1936** (IV of 1936), the Governor is pleased to make the following amendments in the Bengal Payment of Wages Rules, 1937, the same having been previously published as required by sub-section (5) of section 26 of the said Act, namely :—

Amendments.

1. After rule 21 of the said rules, *insert* the following new rule as rule 22 and *renumber* the existing rules 22 and 23 as rules 23 and 24 respectively :—

"22(1) Any amount directed to be paid under section 15 may be deposited with the Authority along with a statement in Form V.

(2) When any deposit is made under sub-rule (1), the Authority shall grant a receipt for the amount so deposited in Form VI and this receipt shall be a sufficient discharge in respect of any amount deposited with him.

(3) Any sum deposited with the Authority under sub-rule (1), or recovered under sub-section (5) of section 15 shall, on application, be paid by the Authority to the person entitled thereto."

2. In rule 23 of the said rules as so renumbered, for the word and figure "Form V" *substitute* the word and figure "Form VII".

3. After Form IV appended to the said rules, *insert* the following forms as Forms V and VI, and *renumber* the existing Form V as Form VII :—

"Form V.**Form for deposit.**

[Rule 22(1) of the Bengal Payment of Wages Rules 1937.]

The sum of Rs.....(Rupees.....)
is hereby presented for deposit in accordance with the direction issued on.....(date) in the matter of an application No..... of 19.....filed by.....(Applicant) against..... (Opposite party).

Dated

Signature of the depositor.

Form VI.**Receipt.**

[Rule 22(2) of the Bengal Payment of Wages Rules, 1937.]

Name of depositor.....
Name of payee.....
No. of application.....of 19.....
Name of Applicant.....

NOTIFICATIONS—BENGAL GOVERNMENT, 1940.

Name of opposite party.....
 Date of Direction.....
 Amount deposited—Rupees.....
 Date of deposit

Authority.

Payment of Wages Act, Bengal."

REVENUE DEPARTMENT.

No. 10838 Misc.—21st November 1940.—In exercise of the power conferred by section 4 of the **Agriculturists' Loans Act, 1884** (XII of 1884), the Provincial Government is pleased to make the following amendments to Statutory Rule 1 under the said Act, published with notification No. 4328-Agri., dated the 9th June 1917.

Add the following at the end of sub-paragraph (1) of rule 1 at page 23 of the Bengal Loans Manual, 1918 :—

"In the case of short-term loans the average loan per head should not exceed Rs. 15 and the maximum should not exceed Rs. 25 in any individual case".

No. 10840 Misc.—21st November 1940.—In exercise of the power conferred by section 4 of the **Agriculturists' Loans Act, 1884** (XII of 1884), the Provincial Government is pleased to make further amendments to the following Statutory Rules under the Act, published with notification No. 7211 Misc., dated the 18th July 1940 :—

Substitute the following for sub-paragraph (1) of rule 11 at page 25 of the manual :—

"(1) The ordinary rate of interest on loans for relief of distress shall be one anna in the rupee or $6\frac{1}{4}$ per cent. per annum, but for other loans, the rate of interest shall be the rate of interest leviable by Co-operative Societies in the areas concerned".

Substitute the following for condition (1) in Form I at page 38 of the Manual :—

"(1) That all and each and every one of us and our heirs and representatives and the heirs and representatives of each of us shall be jointly and severally bound to the Government for the payment of the whole amount of the said loan with interest at the rate of $6\frac{1}{4}$ per cent. per annum by the instalments on the dates and of the amounts/rate of.....per cent. per annum in one instalment on the date specified below :

	Date.	Principal.	Interest.	Total.
1st kist				
2nd kist				
3rd kist				
4th kist				

Note.—Strike off the lines not required."

CO-OPERATIVE CREDIT AND RURAL INDEBTEDNESS DEPARTMENT.

No. 2544 R.I.—21st November 1940.—In exercise of the power conferred by section 55 of the **Bengal Agricultural Debtors Act, 1935** (Bengal Act VII of 1936), the Governor is pleased to make the following amendment in the Bengal Agricultural Debtors Rules, 1936, published with notification No. 9187 L.R., dated the 26th June 1936, as subsequently amended, namely :

In the first proviso to rule 4 of the said rules, *after* the words, brackets and letter "under clause (b)" *insert* the words, brackets and letter "or clause (c)".

No. 2568R.I.—23rd November 1940.—In exercise of the power conferred by section 55 of the **Bengal Agricultural Debtors Act, 1935** (Bengal Act VII of 1936), the Governor is pleased to make the following amendment in the Bengal Agricultural Debtors Rules, 1936, published with notification No. 9187L. R., dated the 26th June 1936, as subsequently amended, namely :—

In clause (b) of sub-rule (1) of rule 50 of the said rules—

(1) after the words and figures "the Bengal Money Lenders Act, 1933" *insert* the words and figures "or the Bengal Money Lenders Act, 1940, whichever may be applicable to the debt in question" and

(2) at the end of the said clause *insert* the words "or principal or both".

Published in the "*Calcutta Gazette*", Part I, dated the 12th December 1940.
JUDICIAL AND LEGISLATIVE DEPARTMENTS.

No. 4054J.—10th December 1940.—In exercise of the powers conferred by section 44 of the **Bengal Money-Lenders Act, 1940** (Bengal Act X of 1940), the Governor is pleased to make the following rules, namely :—

The Bengal Money-Lenders Rules, 1940.

1. These rules may be called the Bengal Money-Lenders Rules, 1940.

2. In these rules, unless there is anything repugnant in the subject or context,—

(1) "form" means a form appended to these rules ;

(2) "section" means a section of the Act ;

(3) "the Act" means the Bengal Money-Lenders Act, 1940.

3. The Provincial Registrar shall exercise general supervision and control over Registrars and Sub-Registrars and Registrars shall exercise general supervision and control over Sub-Registrars. Registrars are authorised under section 6 to hear appeals under sections 16 and 17 from the orders of Sub-Registrars functioning within their respective jurisdictions.

4. An application for appeal under section 5 shall bear a court-fee stamp of Re. 1.

5. A Register of money-lenders referred to in section 7 shall be maintained in form I by Sub-Registrars. Every Registrar shall maintain one such register and the Provincial Registrar shall maintain as many such registers as may be necessary to show in a consolidated manner the names of the registered money-lenders within their respective jurisdictions.

6. Every application for licence under section 11 shall be made in form II.

7. (1) An application for licence on behalf of a firm shall be signed by all the persons constituting the firm or their representative or representatives duly empowered, or in the case where any such person is a minor by the person representing him in the business.

(2) Every such application shall be also verified, in the manner provided in the Code of Civil Procedure, 1908, for the verification of pleadings, by one of the persons signing the application.

8. Every application for licence shall be presented by the applicant personally or by an agent authorised in this behalf in writing by the applicant :

Provided that where there are more applicants than one for the licence any one of them may present the application.

9. Every application for a licence shall be accompanied by an affidavit stating whether any Court has, since the making of the last application (if any) for the grant of a licence, made any order in relation to the applicant or any person responsible or proposed to be responsible for the management of the applicant's money-lending business, in regard to any of the matters mentioned in section 14.

10. (1) After making such enquiries as he thinks necessary the Sub-Registrar shall, if he finds that there is no reason to refuse the grant of the licence, direct the applicant to pay within a specified time a sum representing the fee specified in section 10 in court-fee stamps. These shall be affixed to the application and shall be duly punched and cancelled by the Sub-Registrar who shall put his initials and the date across each court-fee label.

(2) A record signed by the Sub-Registrar shall be kept of every enquiry referred to in sub-rule (1) and such record shall contain a brief memorandum of the substance of evidence taken, if any, and a summary of any conclusion regarding facts elicited during the enquiry.

11. After the applicant has paid in accordance with rule 10 the fee referred to in section 10 the Sub-Registrar shall grant him a licence in form III.

Necessary entries shall then be made in the Register maintained in the office of the Sub-Registrar. Two copies of such entries shall be sent twice every month to the Registrar having jurisdiction for record in the Register kept in his office under rule 5. The Registrar in his turn shall send one such copy to the Provincial Registrar for incorporation in the Register kept in the office of the Provincial Registrar.

A money-lender to whom a licence has been issued may, during the validity of such licence, secure as many duplicates of such licence as he may require from the Sub-Registrar who issued the original licence on payment of a fee of Rs. 2 only in court-fee stamps for each such duplicate.

A money-lender holding a licence may apply for renewal of his licence before the date on which it is due to expire.

12. When a Court requires the money-lender under sub-section (2) of section 13 to pay any penalty imposed by it under that sub-section, it shall direct the money-lender to deposit in the Government treasury a sum representing the said penalty and to file the treasury chalan of such deposit within a time to be fixed by it.

In stations where there are no treasuries the deposit ordered under this rule may be accepted by the Court as a Government receipt and disposed of in accordance with the rules applicable to Government receipts in Civil Courts.

13. An application for removing a disqualification referred to in sub-section (1) of section 14 shall be made in form IV to the Secretary to the Government of Bengal in the Judicial Department. A fee of Rs. 50 shall be deposited in the Government treasury and the receipt (chalan) thereof shall be forwarded with the application.

Provided that the Provincial Government may in any special case on previous application of the party remit any part of such fee, but the fee shall in no case be less than Rs. 15.

14. (1) Every appeal under sub-section (3) of section 16 against an order of a Sub-Registrar refusing a licence and every application under sub-section (5) of that section for revision of any decision of a Registrar

shall be preferred in the form of a memorandum stamped as required under article 1 (b) of Schedule I to the Court Fees Act, 1870 (VII of 1870), and shall respectively be accompanied by an attested copy of the order appealed against and of the decision for the revision of which the application has been made.

(2) As soon as any appeal is filed the Registrar shall cause notice of the same to be given to the Sub-Registrar against whose order the appeal is made, and shall call for the records of the case.

(3) An appeal shall not stay the operation of the order appealed against except so far as the Registrar may direct.

(4) When a memorandum of appeal is filed it shall be entered in a book to be kept for the purpose, to be called "Register of Appeals".

(5) The Registrar shall fix a day for hearing the appellant or his pleader and hearing him if he appears on that day, the Registrar shall give his decision. The Registrar may also give his decision if the appellant or his pleader does not appear on the day fixed. The decision may be for confirming, varying or reversing the order against which the appeal is preferred.

(6) The procedure laid down in sub-rules (2), (3), (4) and (5) shall apply *mutatis mutandis* to the hearing of applications for revision under sub-section (5) of section 16.

(7) A record shall be kept of the hearing of every appeal or application for revision in the manner provided in the High Court Civil Rules and Orders for the keeping of records in the case of miscellaneous appeals and miscellaneous cases in the Civil Courts.

(8) The provisions of this rule shall apply to appeals and revisions contemplated in section 17.

15. (1) Every order of cancellation of licence passed under section 17, and the substance of every order passed under sub-section (1), sub-section (3) or sub-section (4) of section 20 shall be entered by the Sub-Registrar in the Register in which the licence affected has been entered, and intimation of all such orders shall be also given by the Sub-Registrar through the Registrar having jurisdiction to the Provincial Registrar as early as possible.

(2) The Provincial Registrar shall take steps to circulate the substance of any order passed under sub-section (1) or sub-section (3) or sub-section (4) of section 20 to other Registrars as soon as he receives it from the Court which passed the order, and shall also cause the same to be published in such local newspaper or newspapers as may be selected by him. The Provincial Registrar may also in particular cases publish the substance of such order in the *Calcutta Gazette*.

16. Every application under section 11 or section 19 shall bear a court-fee stamp as laid down in article 1 (b) in Schedule II to the Court Fees Act, 1870 (VII of 1870).

17. Every application for cancellation of licence under section 19 shall be in form V and shall be signed and verified in the manner provided in the Code of Civil Procedure, 1908 (Act V of 1908), for the verification of pleadings.

18. The substance of the order referred to in sub-section (5) of section 20 shall be embodied in form VI, form VII or form VIII as the case may be. It shall be sent to the Provincial Registrar and the Sub-Registrar concerned as laid down in the said sub-section. The Provincial Registrar

shall take necessary steps to circulate the substance of such orders periodically to all Registrars of the Province.

19. (1) The cash book, the ledger and the receipt book referred to in sub-section (1) of section 24 shall be maintained by the money-lender in forms IX, X and XI, respectively. He may, however, add additional items to the forms for his convenience.

(2) The statement showing details of the conditions of the loan and other information connected therewith under clause (a) of sub-section (2) of section 24 shall be delivered by a money-lender to a borrower in form XII.

20. A copy of the account referred in sub-section (1) of section 24 shall be admissible as evidence of the contents of such account if it is certified to be a true copy of such account, under the signature of the money-lender or his authorised agent, the signature being attested by the President or any other member of a union board, or a Magistrate, Honorary or Stipendiary, or any gazetted officer of Government.

21. The statement of accounts which the money-lender shall, within two months of the commencement of each year, furnish each of his borrowers under sub-section (1) of section 25 or the statement to be supplied by the money-lender to his borrower under sub-section (2) of that section shall be in form XIII.

22. A borrower shall pay to the money-lender under the proviso to sub-section (3) of section 25 a fee of Rs. 2 in order to obtain a subsequent copy of any document evidencing an agreement to secure repayment of a loan advanced to the borrower, a copy of which has previously been furnished to him by the money-lender under the said sub-section. The fee shall be sent by postal money order and the number and date of the postal receipt shall be mentioned in the demand in writing made by the borrower.

23. The statement of information to be supplied to an assignee under clause (b) of sub-section (1) of section 28 shall be in form XIV.

24. (1) The notice to be given to the defendant by the plaintiff under sub-clause (ii) of clause (a) of sub-section (1) of section 34 shall be in form XV.

(2) The notice to be given by the decree-holder to the judgment-debtor under sub-section (2) of section 34 shall be in form XVI.

25. An application for review of decree made under sub-clause (ii) of clause (a) of sub-section (6) of section 36 shall bear a court-fee stamp as laid down in article 11 (a)(ii) of Schedule II of the Court-Fees Act, 1870 (VII of 1870).

26. The application to be made by a borrower under sub-section (1) of section 38 shall be made in form XVII.

For the service of notice of such application on the lender under the said sub-section process fees shall be payable by the borrower in court-fees stamps according to the scale laid down by the High Court for service of summons on defendants, and no notice shall be issued unless such process fees have been paid. (Appendix A).

27. (1) The application to be made by the borrower to a Court for permission to deposit a sum under sub-section (1) of section 39 shall be made in form XVIII and shall bear a court-fee stamp of 12 annas as required by article 1 (b) of Schedule II to the Court Fees Act, 1870 (VII of 1870).

(2) The Court shall thereupon cause notice of the deposit to be served on the lender under sub-section (2) of section 39 in form XIX for which process fees in accordance with the scale laid down by the High Court for service of summons on defendants shall be charged. (Appendix A.)

(3) The lender may present a petition for the withdrawal of the sum in form XX and the procedure to be followed in connection with such withdrawal shall be the same as in the case of withdrawal of other civil deposits. Every such petition shall be accompanied by a verified statement on plain paper as required under sub-section (2) of section 39, and shall, except in cases in which the original deposit does not exceed Rs. 25 in amount, be stamped with court-fees chargeable under the fourth paragraph of clause (a) or the second paragraph of clause (b) of Article I of Schedule II to the Court Fees Act, 1870 (VII of 1870), as the case may be.

28. The Provincial Government may provide such ministerial and menial staff as in its opinion may be required from time to time by the Provincial Registrar and any Registrar and Sub-Registrar, and may regulate the conditions of employment of such staff and fix the salaries and allowances payable to them.

29. Every Sub-Registrar and Registrar shall keep an Inspection Book.

30. Every Sub-Registrar and Registrar shall at all times permit any officer authorised in this behalf by the Provincial Government to have access to all his books, proceedings and records.

31. Every Sub-Registrar and Registrar shall maintain a register of applications for licence and for cancellation of licence in form XXI.

Form 1.

(Section 7 and Rule 5.)

Register of Money-lenders.

Office of the Sub-Registrar of ————— Subdivision ————— District —————

Serial No.	Name father's husband's name, caste or religion and full address of the money-lender.	Full details of the principal place of business and of the branches thereof.	Date and serial number of previous licence, if any.	Number and date of gazette notification, if any, remitting part of licence fee.	Date of the issue of the present licence.	Serial number of application.
1	2	3	4	5	6	7

Cancellation of licence,* if any, with date and particulars.	Orders of Appellate Authority, if any.	Substance of any order passed under sub-section (1), sub-section (3) or sub-section (4) of section 20.	Number of duplicate licences issued with dates.	Signature of Sub-Registrar.	Remarks.
8	9	10	11	12	13

(1) In the case of a money-lending firm or company column 2 should

*In column 8—Section of the Act applied should be entered when filling up this column.

show the name of the firm or company, the name and style under which it carries on or desires to carry on business as a money-lender and in the case of a firm, the names and father's or husband's names of the existing owners or partners of the firm.

(2) Column 12 should be left blank in the office of the Registrar and the Provincial Registrar.

Form II.

(Rule 6.)

Application for the grant of a licence to a money-lender:

(Section 11 of the Bengal Money-Lenders Act, 1940.)

In the office of the Sub-Registrar of.....

P. O.
Subdivision.
District.

- (a) Name of the applicant, with father's or husband's name, caste, residence and address in full.
- (b) In cases where the applicant is a firm, the names of all persons constituting it, with father's or husband's name, caste, residence and address in full of each.
- (c) In cases where the applicant is a firm, whether it is a Hindu joint family firm or otherwise constituted, and whether it has been registered under the Indian Partnership Act, 1932.
- (d) Name or style under which the applicant carries on his money-lending business.
- (e) Names of the district or districts within which the applicant has his business on the date of the application.
- (f) Names of persons responsible or proposed to be responsible for the management of the applicant's money-lending business.
- (g) Location of the applicant's principal place of business, with full particulars thereof and the name, father's or husband's name, caste, and address of the person in charge.
- (h) Has the applicant any office at any other station? If so, give complete particulars, with the name, father's or husband's name, caste and address of the person in charge of each office.
- (i) What is the extent of the total business of the applicant on the date of the application?
- (j) For how long has the applicant carried on the business of money-lending?
- (k) Whether any application for registration has previously been made by the applicant, or where the applicant is a firm, by any one or more of its members singly or jointly *inter se* or with any other person under any name. If so, when, where and with what result.
- (l) (i) In case the applicant had previously been registered and licensed, give full particulars of the licence.

- (ii) State whether any licence granted previously to the applicant (or where the applicant is a firm, to any one or more of its members singly or jointly *inter se* or with any other person) has been refused or cancelled. If so, full particulars should be given, including the name of the officer and the date and terms of the order cancelling the licence.
- (m) Whether money-lending is the sole business of the applicant or whether he is engaged in any other business, profession or calling.

Certified that all the facts set out in the application are true to my knowledge except paragraphs _____, which are true to my belief being based on information supplied by _____

Signature of the person making
the verification with date and
place of so doing.

Signature of the applicant with
date.

Form III.
(Rule 11.)

Money-lender's Licence.

(Section 12 of the Bengal Money-Lenders Act, 1940.)

District _____

Subdivision _____

Town _____

Post Office _____

Village _____

Police Station _____

Licence No. _____

This licence has been granted to _____ to carry on the business of money-lending on the following terms:—

- (a) The licence will be valid up to _____ or until it is cancelled.
- (b) It shall entitle the licensee to carry on the business of money-lending within the whole of the Province of Bengal.
- (c) The licensee shall surrender the licence when ordered to do so by the Sub-Registrar granting it or by the Registrar having jurisdiction or by the Provincial Registrar or by any Court.

Signed _____

Sub-Registrar.

(Seal of the Sub-Registrar.) Dated _____

*The licence shall show the names of all the applicants or the names of all the partners of a firm.

The registered firm is constituted by—

1. son of..... caste..... resident of.....
2. " " " " " "
3. " " " " " "
4. " " " " " "

N. B.—The word "Duplicate" should be written in bold type on each duplicate licence issued and the duplicate should bear the same licence number as the original.

Back.

Endorsement, if any.

Signature.

Remarks.

Form IV.

(Rule 13.)

Form of application to the Provincial Government under section 14(2) of the Bengal Money-Lenders Act, 1940.

To

The Secretary to the Government of Bengal.

I/We, the undermentioned applicant/applicants, hereby apply under sub-section (2) of section 14 of the Bengal Money-Lenders Act, 1940, for removal of my our disqualification (s) for holding a licence under section

of the said Act. Particulars relating to my our case are given below.

The chalan showing the deposit of the prescribed fee of Rs. _____ is attached herewith.

Particulars

1. Name of applicant with description.
2. Residence.
3. Number of licence with date of cancellation.
4. Conviction, if any, with particulars, date, section, etc.
5. Special grounds, if any.
6. Remarks.

*Signature.***Form V.**

(Rule 17.)

Form of application for cancellation of licence under section 19 of the Bengal Money-Lenders Act, 1940.*Stamp.*

In the Court of _____

Application under section 19 of the Bengal Money-Lenders Act, 1940, for cancellation of licence.

Name of applicant _____ (full name)

Occupation and address—

Name of money-lender—

Details of the loan taken from the money-lender—

Grounds on which cancellation is applied for—

Particulars.

The applicant prays for cancellation of licence of the money-lender abovenamed.

Verification—

Form VI

(Rule 18).

[Substance of order under section $\frac{20(1)}{20(3)}$ of the Bengal Money-Lenders Act, 1940.]

In the Court of _____

Case No. _____

of.

son

daughter of

wife

the firm _____
 resident of _____
 is disqualified on conviction under section _____
 Money-Lenders Act, 1940, for a period _____
 and the licence previously granted
 him _____
 to her has been cancelled and impounded.
 them _____
 Seal.

Signature.

N. B.—Delete portions as are not necessary.

Form VII.
 (Rule 18.)

[Substance of order under section 20(4) of the Bengal Money-Lenders Act, 1940.]

In the Court of _____
 Case No. _____

Appellant.

Respondent.

The above appellant having applied for stay of operation of the order passed under section 20 of the Bengal Money-Lenders Act, 1940, in Case No. _____ of the Court of _____ it has been ordered that the operation of the said order will be stayed pending the decision of the appeal or until further orders.

Seal.

Signature.

Form VIII.
 (Rule 18.)

[Substance of order under section 20(4), Proviso of the Bengal Money-Lenders Act, 1940.]

In the Court of _____
 Appeal Case No. _____

Appellant.

Description.

Respondent.

Description.

The above appeal having been heard and allowed (state if in part)
dismissed

the order of cancellation of the licence under section 20 of the Bengal Money-Lenders Act, 1940, passed against the appellant on _____ by the Court of _____ in Case No. _____ of _____

set aside

is modified and the endorsements on the licence are erased
modified

upheld
 He is accordingly debarred from holding a licence for a period of _____ only from _____

Seal.

Signature.

N. B.—Unnecessary portion to be deleted.

Form IX.
[Rule 19(1).]
Cash Book.

Dr.				Receipts.		Disbursements.			Cr.	
Date.	Particulars.	Ledger folio.	Amount.	Date.	Particulars.	Ledger folio.	Amount.			
1940	Brought forward...		Rs. a. p. 6,000 0 0	1940	Lent to R. C. Sen Rupees five thousand, interest 7½ per cent. per annum.		Rs. a. p. 5,000 0 0	Rs. a. p. 1,025 0 0		
August 2...	Interest received from Jagat Ch. Mookerji on the mortgage bond dated from to		25 0 0	August 2...			5,000 0 0	6,025 0 0		
August 3...	To balance.		1,025 0 0							

In case of loans in kind the entry shall contain clear reference to the commodity advanced with market value of same at the date of each transaction.

Form X.
[Rule 19 (1).]
Ledger.

Account No.
Name of debtor(s)—Ram Chandra Sen.

Address—

Date of loan
Amount of loan
Rate of interest per annum.
Dr.

Due date
other particulars, if any

Date.	Particu- lars.	Cash book folio.	Amount due.		Date.	Particulars.	Cash book folio.	Amount paid.		Remarks.
			Principal.	Interest.				Principal.	Interest.	
1940 August 2.	Principal				1940 Sept. 10.	Interest.				

Cr.

Form XI.
[Rule 19 (1).]
Receipt Book.

Serial No.—
Name of debtor—
Address—
Re. Loan*—
Date—
Received from—
On account of (a) Principal—
(b) Interest—
The total sum of—
Date of credit in Cash Book with page
No—

Serial.—
Name of debtor—
Address—
Re. Loan*—
Date—
Received from—
On account of (a) Principal—
(b) Interest—
The total sum of—

Signed.

Signature of the Creditor or his Agent.

N. B.—Particulars to be stated giving brief reference to documents, if any, with date and names of parties.

In case of payment in kind state also market price of commodity on the date of each payment.

Form XII.
[Rule 19(2).]

[Section 24(2)(a) of the Bengal Money-Lenders Act, 1940.]
Statement showing details of conditions of the loan, etc.

Name of debtor—
Address—

1. Date of loan—
2. Amount of loan—
3. Rate of interest per annum—
4. Particulars of document, if any—
5. Any special conditions on which the loan has been made—
6. Other connected information—

Signature of money-lender—
Address—

Date—

N. B.—A separate statement shall be furnished in respect of each loan transaction.

In case of loans in kind there shall be reference to the commodity advanced along with market value of the same at the date of each transaction.

Form XIII.
(Rule 21.)

Statement under section 25(1) or 25(2) of the Bengal Money-Lenders Act, 1940, for the year

Particulars concerning loans.

*Date of receipt of demand for particulars—

1. The amounts of principal and interest due to the money-lender at the commencement of the year—
2. The amounts of any sums advanced to the borrower from time to time since the commencement of the year and the dates on which they were advanced—
3. The amounts of any payments received from the borrower since the commencement of the year in respect of loans outstanding and the dates on which they were received—

4. The amount of every sum due from the borrower remaining unpaid at the commencement of the year and the date on which each such sum became due and the amount of interest accrued due and unpaid in respect of every such sum—

5. The amount of every sum not yet due which remains outstanding and the date upon which each such sum will become due—

6. Other special particulars, if any—

(1) *N.B.*—A separate statement shall be given for each loan; the document, if any, for such loan shall be mentioned in each statement.

(2) *N.B.*—In case of loans in kind state money value of the commodity at the date of payment, and in cases of amounts outstanding when same become payable.

Signature of Money-lender or his Agent—

Date—

*For statement under section 25(2) only.

Form XIV.

(Rule 23.)

Statement of information to be supplied to the Assignee under section 28(1)(b) of the Bengal Money-Lenders Act, 1940.

Name of money-lender including subsequent assignees, if any,
and his address —
their addresses

Name of debtor—

Address—

1. Date of loan—

2. Amount of loan—

3. Rate of interest per annum—

4. Total repayments made by the debtor up to date—

(a) Principal—

(b) Interest—

(c) Total—

5. Amount outstanding on the date of information—

(a) Principal—

(b) Interest—

(c) Total—

6. Particulars of documents including previous assignments, if any—

7. Any special condition attaching to the loan—

8. List of documents of which copies are attached—

9. Other information, if any—

Signature of Assignor Money-lender—

Address—

Date—

Form XV.

[Rule 24 (1).]

Notice.

[Section 34 (1) (a) - (ii) of the Bengal Money-Lenders Act, 1940.]

To

Re Suit No. _____ of _____ in the Court _____
Please take notice under sub-clause (ii) of clause (a) of sub-section _____
Defendant.

(1) of section 34 of the Bengal Money-Lenders Act, 1940, that as you have defaulted in payment of instalment (particulars to be stated including number of suit, etc.) an application will be made by me to the Court within _____ days for final decree in the aforesaid suit under (7) sub-clause (ii) of clause (a) of sub-rule (1) of rule 2 of Order (2) sub-rule (1) of rule 4

XXXIV of the First Schedule to the Code of Civil Procedure, 1908.

Plaintiff.

Form XVI.

[Rule 24 (2).]

[Section 34(2) of the Bengal Money-Lenders Act, 1940.]

To—

Judgment-Debtor.

Re Suit No. _____

in the Court of _____

Please take notice under sub-section (2) of section 34 of the Bengal Money-Lenders Act, 1940, that you have defaulted in payment of instalment (particulars to be stated including number of suit, due date of payment, etc.) as ordered by the Court in the aforesaid suit and that I intend to apply on or after _____ for execution of the decree for recovery of the said instalment with interest thereon at 6 per cent. per annum from the date of such default.

Decree-holder.

Form XVII.

(Rule 26.)

[Section 38(1) of the Bengal Money-Lenders Act, 1940.]

In the Court of _____

Mis. Case No _____

of 19 _____

The undermentioned borrower applies for taking accounts of the loan described below and for declaring the amount due to the lender.

Particulars of Loan.

1. Document, if any, with particulars—

2. Amount—

3. Description of lender—

(a) Name—

(b) Father's name—
Husband's

(c) Address—

4. Description of borrower—

(a) Name—

(b) Father's name—
Husband's

(c) Address—

(5) Whether any declaration has been made in the case of this debt under section 13(2) or any determination of the amount of debt under section 18 of the Bengal Agricultural Debtors Act, 1935.

Signature.

Date—

Form XVIII.

[Rule 27 (7).]

Section 39 (1).

In the Court of

Case No.

The undermentioned borrower applies for deposit in the above Court to the account of the lender under section 39 of the Bengal Money-Lenders Act, 1940, of money due in respect of the loan stated below:—

Particulars of the loan—

Name of borrower, ^{father's} _{husband's} name, description, etc.—

Name of lender—

Address of lender—

Amount of loan—

Amount found payable by Court under section 38—

Payable and due— (1) Principal—

(2) Interest—

Payable but not due—

Date of remittance by postal money order with postal receipts if any—

Date of refusal—

*Signature.***Form XIX.**

[Rule 27 (2).]

[Form of notice of deposit under section 39(2) of the Bengal Money-Lenders Act, 1940.]

In the Court of

Case No.

of 19

Name of lender—

Address—

You are hereby informed that _____ of _____ has deposited in this Court under section 39 (1) of the Bengal Money-Lenders Act, 1940, a sum of Rs. _____ (Rupees _____ on account of principal and Rs. _____ on account of interest) to your account _____ in respect of the loan of Rs. _____ stated to have been advanced by you to him on _____ days. You are requested to withdraw this amount within _____ days. Government accept no responsibility for any loss which you may incur in connection with the aforesaid sum while it remains in deposit with the Court.

Seal.

Dated the—

*Signature***Form XX.**

[Rule 27 (3).]

[Form of withdrawal under section 39(2) of the Bengal Money-Lenders Act, 1940.]

[For Forms XX and XXI see pages 3492-95 of Part I of the Calcutta Gazette, 1940. Editor.]

APPENDIX A.

PROCESS FEES.

Rule 680 of High Courts Civil Rules and Orders, Volume 4.

(2) *Fees chargeable in Civil and Revenue Courts in Bengal and Assam.*[For remaining portion of Appendix A see pages 3496-97 of Part I of the Calcutta Gazette, 1940. *Editor.*]

APPENDIX B.

The fees specified in the following schedule shall be paid in court-fee stamps by the persons indicated against each:—

Schedule.		Fees.	Amount.	By whom payable.
1.	On an application for appeal under section 5.	...	One rupee	... Applicant.
2.	For licence under section 10	...	Fifteen rupees	... Ditto.
3.	For duplicate licence under Rule 11	...	Two rupees	... Ditto.
4.	On an appeal under section 16 (3) against an order of a Sub-Registrar refusing a licence.	...	Twelve annas	... Appellant.
5.	On an application under section 16 (5) for revision of any decision of a Registrar.	...	Ditto.	... Applicant.
6.	On appeals and revisions contemplated in section 17.	...	Ditto.	... Appellant.
7.	On an application under section 14 or 19.	...	Ditto.	... Applicant.
8.	On a suit for relief by a borrower under section 36 (7).	...	One rupee.	... Plaintiff.
9.	On an application for review of decrees made under section 36(6)(a)(i)	...	Ditto.	... Applicant.
10.	On an application made by the borrower to a court for permission to deposit a sum under section 39(7).	...	Twelve annas	...
11.	On a petition by a lender for withdrawal of a sum exceeding Rs. 25 deposited by a borrower in a court under section 39(7).	...	Two annas if the amount concerned is less than Rs. 50, Twelve annas otherwise.	Petitioner.

DEPARTMENT OF COMMERCE AND LABOUR.

No. 3360 Com.—4th October 1940—In exercise of the powers conferred by sections 3, 11, 13, 14, 15, 17, 18, 19, 20, 22, 24, 28, 30, 31, 32, 33, 39, 41, 47, 48, 55, 56, 59, 76 and 77 of the **Factories Act, 1934** (XXV of 1934), and in supersession of the rules published under the Government of Bengal, Commerce Department, notification No. 10844 Com., dated the 22nd November 1935, as subsequently amended, the Governor is pleased to make the following rules, the same having been previously published as required by section 79 of the said Act, namely:—

The Bengal Factories Rules, 1940.

CHAPTER I.

TITLE AND DEFINITIONS.

1. *Short title.*—These rules may be called “The Bengal Factories Rules, 1940.”

[For remaining portion of the Rules, see Calcutta Gazette, 1940, Part I, pages 3507 to 3563. *Editor.*]

Published in the "*Calcutta Gazette*", Part I, dated the 2nd January 1941.
REVENUE DEPARTMENT.

No. 12062 Misc.—23rd December 1940.—In exercise of the power conferred by section 10 of the **Land Improvement Loans Act, 1883** (XIX of 1883), the Governor is pleased to make the following amendment in the rules in regard to loans under the said Act, published with notification No. 4327 Agri., dated the 9th June 1917, in Part I of the *Calcutta Gazette* of the 13th *idem*, pages 853-863:—

Amendment.

On the reverse of Form A appended to the said rules below the heading "Recommendations of the Enquiring Officer" add the following heading and the Form of Certificate:—

"Certificate of the Enquiring Officer."

I certify that the answers to item No. III (i) and (iii) have been inserted after personal enquiries made by me in.....sub-registration office."

Chittagong Hill-tracts.—No. 348.—24th December 1940.—In exercise of the power conferred by sub-section (1) of section 92 of the **Government of India Act, 1935**, the Governor is pleased to direct that the Indian Finance (No. 2) Act, 1940, shall be deemed to have applied to the Chittagong Hill-tracts with effect from the 29th November 1940, subject to the following exception, namely:—

Section 3 of the said Act shall not apply to the indigenous hillmen in the said tracts.

Published in the *Calcutta Gazette*, Part I, dated the 9th January 1941.
HOME DEPARTMENT.

No. 36A.R.—7th January 1941.—The following notification by the Secretary to the Governor of Bengal is hereby published for general information:—

"Notification No. 354, dated the 6th January 1941.—In His Majesty's name, His Excellency the Governor has assented to the **Bengal Tenancy (Amendment) Bill, 1940**.

M. O. CARTER,

Secretary to the Governor."

CO-OPERATIVE CREDIT AND RURAL INDEBTEDNESS DEPARTMENT.

No. 47R.I.—3rd January 1941.—In exercise of the power conferred by clause (7) of section 2 of the **Bengal Agricultural Debtor's Act, 1935** (Bengal Act VII of 1936), the Governor is pleased to appoint the Additional District Magistrates in the under mentioned districts, *ex officio*, to exercise the powers of a Collector under the proviso to rule 144 of the Bengal Agricultural Debtors Rules, 1936:—

- (1) Mymensingh.
- (2) Midnapore.
- (3) 24 Parganas.
- (4) Dacca.
- (5) Tippera.
- (6) Bakarganj.
- (7) Chittagong.

Published in the "*Calcutta Gazette*," Part I, dated the 16th January 1941.

HOME DEPARTMENT.

No. 57A.R.—13th January 1941.—The following notification by the Secretary to the Governor of Bengal is hereby published for general information:—

"Notification No. 367, dated the 10th January 1941.—In His Majesty's name, His Excellency the Governor has assented to the **Bengal Local Authorities Census Expenses Contribution Bill, 1940.**

M. O. CARTER,

Secy. to the Governor."

REVENUE DEPARTMENT.

No. 335L.R.—13th January 1941.—In exercise of the power conferred by section 9 of the Bengal Finance Act, 1939 (Bengal Act IX of 1939), the Governor is pleased to make the following amendments in the **Bengal Professions, Trades, Callings and Employments Taxation Rules, 1939**, published under notification No. 11104L.R., dated the 14th October 1939, at pages 2733-36 in Part I of the *Calcutta Gazette* of the 19th October 1939, as subsequently amended, namely:—

Amendments.

1. After clause (d) of rule 2 of the said rules *insert* the following clause:—

(dd) 'principal officer' used with reference to a local authority or a company or any other public body or association, means—

(i) the secretary, treasurer, manager or agent of the authority, company, body or association, or

(ii) any person connected with the authority, company, body or association upon whom the assessing officer has served a notice of his intention of treating him as the principal officer thereof."

2. To sub-rule (1) of rule 4 of the said rules, *add* the following paragraph:—

"It shall also be competent for the assessing officer to demand from the principal officer of any local authority, company, or any other public body or association, the names and complete addresses of all or any of the assesseees who have served or are serving under such authority, company, body or association or who have been or are members of such body or association and such principal officer shall thereupon furnish the assessing officer with the names and addresses so demanded".

3. In rule 7 of the said rules—

(a) in sub-rule (4) omit the words "and producing the duplicate chalan before the assessing officer";

(b) to sub-rule (4) *add* the following paragraph:—

"Payments by assesseees into the treasury whether in cash or by cheque, shall be accompanied by chalans in B.F. No. 1182 in triplicate. In case of assesseees to whom section 4 of the Act is not applicable, the treasury officer shall keep one copy of the chalan for record in his office, return the second copy to the payer and send the third copy to the assessing officer concerned. In case of assesseees to whom section 4 of the Act is applicable, one copy shall be kept in the treasury and two copies shall be returned to the payer".

4. To rule 9 of the said rules *add* the following sub-rule:—

(4) In the case of the tax deducted from the salary or leave allowance bills of officers of the Forest Department of the Government of Bengal,

the disbursing officer shall adjust it *per contra* in the Forest Accounts. He shall then prepare chalang in duplicate, showing such payment of the tax, attest them and forward one copy to the assessing officer along with the statement referred to in sub-rule (3)".

5. After rule 12 of the said rules add the following rules:—

"13. *Writing off of irrecoverable taxes.*—Where a tax is found irrecoverable wholly or in part, even after careful and diligent attempts to recover it, it may be written off by the Collector of Stamp Revenue in Calcutta, and by the Collectors of districts outside Calcutta, on a report of the circumstances by the assessing officer on whose roll the assessee is borne, provided that they do not disclose (i) a defect of system the amendment of which requires the orders of higher authority, or (ii) serious negligence on the part of some individual officer or officers which might call for disciplinary action, requiring the orders of higher authority.

14. By the 15th of May each year the Collector of Stamp Revenue in Calcutta and the Collectors of districts outside Calcutta shall submit to the Board of Revenue a statement in the following form of taxes so written off during the previous financial year:—

Amount of tax written off on account of—

	Rs.	a.	p.
(i) death of the assessee	...	...	...
(ii) residence of the assessee outside Bengal	...	...	...
(iii) failure to trace the assessee	...	...	...
(iv) failure of the certificate procedure	...	...	...
(v) other reason	...	...	...
Total	...	...	...

Published in the "*Calcutta Gazette*", Part I, dated the 23rd January 1941.
CO-OPERATIVE CREDIT AND RURAL INDEBTEDNESS
DEPARTMENT.

No. 123R.I.—15th January 1941.—In exercise of the powers conferred by section 55 of the **Bengal Agricultural Debtors Act, 1935** (Bengal Act VII of 1936), the Governor is pleased to make the following amendment in the Bengal Agricultural Debtors Rules, published with notification No. 9187L.R., dated the 26th June 1936, as subsequently amended, namely:—

At the end of the heading of part (3) of Schedule C to Form I of the said rules the words "or in possession of the creditor or of any person holding it under the creditor" shall be added.

No. 128R.I.—16th January 1941.—In exercise of the powers conferred by section 55 of the **Bengal Agricultural Debtors Act, 1935** (Bengal Act VII of 1936), the Governor is pleased to make the following amendments in the Bengal Agricultural Debtors Rules, 1936, published with notification No. 9187L.R., dated 26th June 1936, as subsequently amended, namely:—

For sub-rule (2) of rule 109 of the said rules substitute the following:—

"(2) The Collector of the district shall be competent to appoint, punish and generally control the staff of a Special Board and Subdivisional Officer shall be competent to appoint, punish and generally control the staff of any other Board.

(3) An appeal, if presented within thirty days from the date of the order appealed against, shall lie—

(a) to the Commissioner from any order made under sub-rule (2) by the Collector of the district, or

(b) to the Collector of the district from any order made under sub-rule (2) by a Subdivisional Officer."

No. 168R.I.—18th January 1941.—In exercise of the powers conferred by section 55 of the **Bengal Agricultural Debtors Act, 1935** (Bengal Act VII of 1936), the Governor is pleased to make the following amendments in the Bengal Agricultural Debtors Rules, 1936, published with notification No. 2187L.R., dated the 26th June 1936, as subsequently amended, namely:—

Amendments.

In the Schedule to rule 136 of the said rules—

(a) after item 3 insert the following item:—

Fees.	Amount.	By whom payable.
"3A. On a process to be issued under section 19A(2).	Such fees as are payable under rule 166, section VI pages 18-20 of the Bengal Practice and Procedure Manual, 1934.	Applicant."

(b) In item 8, after the words "On a memorandum of appeal" insert the words "or an application for revision" and after the word "Appellant" occurring in the third column under the heading "By whom payable" add the words "or applicant" wherever the word "Appellant" occurs in this item.

No. 2511R. I.—18th November 1940.—In exercise of the powers conferred by section 55 of the **Bengal Agricultural Debtors Act, 1935** (Bengal Act VII of 1936), the Governor is pleased to make the following amendments in the Bengal Agricultural Debtors Rules, 1936, published with notification No. 9187L. R., dated the 26th June 1936, as subsequently amended, namely:—

1. In rule 50A(3) of the said rules, the words "after the fees referred to in the said rule have been paid" shall be omitted.

2. After rule 50A of the said rules, the following rules shall be inserted:—

Procedure to be followed in determining the amount of principal and interest of a debt to which sub-section (5) or (6) of section 18 applies.

50B. (1) For the purpose of enabling the Board to make the determination under sub-section (2) of section 18 in respect of a debt to which the provisions of sub-section (5) of that section apply, the Collector shall, by notification in the *Calcutta Gazette* and in such other manner as the Provincial Government may direct,—

(a) as soon as possible after the publication of this rule, declare for the whole district or any part thereof the normal outturn per acre of each of the principal crops grown in his district;

(b) as soon as possible after the publication of this rule, and in the month of January in each subsequent year, declare the price per maund of each such crop during the month following the harvest in each of the preceding fifteen years;

(2) For the purpose of the declaration under clause (a) of sub-rule (1), the Collector shall take the figures in Schedule I appended to these rules for each of the crops mentioned in that Schedule as the normal outturn per acre of such crop, unless he is, for reasons to be

recorded in writing, satisfied that any other figure should be declared as the normal outturn for any part of the district.

(b) For the purpose of declaration under clause (b) of sub-rule (1), the Collector shall—

(i) take the figure for his district contained in Appendix VI of the Annual Season and Crop Report, Bengal, with regard to each of the crops mentioned in that Appendix as the price per maund of such crop, unless for reasons to be recorded in writing he is satisfied that a different figure should be taken for any part of the district;

(ii) take the price per maund of *aus* and *aman* paddy to be half the price shown in the said Appendix for autumn and winter rice respectively, and the price of sugarcane to be 1/15th of the price of *gur*.

(3) Every preliminary declaration published under sub-rule (1) shall further state that any objection received by the Collector within thirty days from the date of such publication will be considered by him.

(4) After considering the objections, if any, received under sub-rule (3), the Collector shall, if necessary, amend the declaration and shall finally publish it.

(5) The Collector shall then annually by reference to the declarations finally published under sub-rule (4), calculate the value deemed to have been received per acre of each crop during the several periods from each of the fifteen years referred to in clause (b) of sub-rule (1) up to the end of the year previous to the calculation, in the district or any part thereof, and shall communicate the figures so arrived at to each Board in the district in the manner shown in Form VIIIA.

50C. Where the Board is satisfied that an account of receipts and expenses kept by the creditor regarding the use of any land of the debtor possessed by him is correct, it may accept such account for the purposes of sub-sections (5) and (6) of section 18.

50D. When no such account is kept or where the Board does not find an account so kept to be correct the Board shall—

(1) calculate the area of the property by reference to the particulars furnished in the application or statement of debt under clause (ee) of sub-section (1) of section 11;

(2) calculate the receipts of the creditor from each of the crops mentioned in form VIIIA grown on such area by multiplying the area normally cultivated with such crop by the figure in form VIIIA for that crop shown against the year in which the debt was incurred, adding thereto any amount received on account of any such crop harvested after the expiry of the latest year mentioned in form VIIIA.

(3) calculate in the manner directed by the Collector the receipts of the creditor from crops other than those mentioned in Form VIIIA (such as *boro* paddy or mangoes) grown on the area referred to in clause (1) of this rule and the receipts of the creditor in respect of the property from any other sources (such as fish from any tank on the property).

50E. (1) One-half of the total receipts calculated under clauses (2) and (3) of rule 50D less the amount of any sum paid by the creditor as rent during the period of the debt shall be deducted by the Board from the total receipts as expenses incurred by the creditor for the cultivation or management of the property.

(2) The net receipts remaining after the deduction under sub-rule (1) shall, for the purpose of sub-section (5) of section 18, be deemed to be the amount to be credited towards repayment of the debt.

50F. For the purpose of ascertaining the amount of interest due on the original principal of the debt the Board shall, for the entire period of the debt, calculate such interest at the rate of two-thirds of the maximum rate specified for simple interest in any law for the time being in force for control of money-lending.

50G. (1) Where a loan has been made in kind, the Board shall, for the purpose of clause (b) of sub-section (6) of section 18, calculate the money value of such loan with reference to the figure shown in form VIIIB for the crop in which the loan was made against the year in which the loan was made.

(2) Where any interest has been paid in kind, the Board shall, for the purpose of clause (b) of sub-section (6) of section 18, calculate the money value of such payments with reference to the figures shown in form VIIIB for the crop with which interest was paid against the years in which such payments were made.

(3) If the loan was made or if the interest was paid in any other crop than those mentioned in form VIIIB, the Board shall estimate the money value of the loan or of interest payment at such amount as it may consider to be fair and reasonable.

3. After rule 91 of the said rules the following heading and rules shall be inserted, namely:—

"Review (section 44).

91A. No application under clause (a) of section 44 for review of any decision or order passed by a Board shall be entertained and no Board shall make any order reviewing, of its own motion under the said clause, any decision or order passed by it, if an appeal has been preferred under the Act from such decision or order.

91B. An application for review under clause (a) of section 44 shall ordinarily be made within sixty days of the date of the decision or order of the Board and a Board may also, of its own motion, review its decision or order within sixty days of the date of the decision or order passed by it:

Provided that no action shall be taken by a Board on an application for review made after the said period of sixty days and no Board shall review its decision or order after the said period save with the sanction of the Collector.

91C. In deciding whether sanction should be given under rule 91B or not, the Collector shall consider—

(a) whether any material illegality or irregularity has occurred;

(b) whether substantial injustice, hardship or difficulty has been occasioned; and

(c) whether the applicant had good and sufficient reasons for not making the application within sixty days of the date of the decision or order of the Board as required under rule 91B.

91D. No application to review an order made on an application for a review or an order made on a review under clause (a) of section 44 shall be entertained."

4. After form VIII appended to the said rules, the following forms shall be inserted, namely:

Form VIIIA.

(See rule 50B).

Showing in columns 2 to 9 in respect of each crop mentioned therein, against each year in column 1, the gross value deemed to have

been received per acre of land normally sown with any such crop since such year.

For District..... Thana..... Board.....

Year.	Aus paddy.	Aman paddy.	Jute.	Gram	Mustard	Linseed	Sugar-cane.	Tobacco.
1	2	3	4	5	6	7	8	9

Form VIII B.

(See rule 50G.)

Harvest prices of staple paddy crops (per maund).

For District... Thana..... Board.....

Year.	Aus paddy.	Aman paddy.
1	2	3

5. At the end of the said rules the following schedule shall be added, namely :—

Schedule I.

(See rule 50B.)

Normal yield in maunds per acre for Staple Crops.

District.	Aman paddy.	Aus paddy.	Boro paddy.	Jute.	Gram.	Pulses.	Mustard.	Linseed.	Til.	Sugarcane.	Tobacco.
Bakarganj	22	15	25	17	...	7	6	6	6	40	12
Bankura	18	16	20	16	10	10	7	7	7	56	12
Birbhum	18	18	18	17	10	...	7	7	7	50	12
Bogra	20	15	20	17	11	10	7	6	6	54	8
Burdwan	20	16	20	16	11	11	6	6	6	60	12
Chittagong	23	21	20	...	...	7	7	7	7	50	12
Dacca	18	16	22	17	10	10	6	7	7	55	10
Dinajpur	19	15	22	16	9	8	7	6	7	54	10
Faridpur	19	15	22	17	11	10	7	7	8	55	12
Hooghly	22	19	19	17	8	8	7	9	6	56	12
Howrah	22	16	20	16	8	8	7	9	6	54	12
Jalpaiguri	21	15	21	16	9	...	8	6	7	45	10
Jessore	18	15	20	15	8	10	7	7	6	50	10
Khulna	19	15	20	15	...	10	6	6	7	56	12
Malda	17	12	22	16	11	10	9	9	7	50	11
Midnapore	18	16	22	16	8	8	6	6	6	56	12
Murshidabad	17	16	20	17	9	10	6	6	6	56	12
Mymensingh	20	16	26	17	10	7	7	7	7	58	12
Nadia	15	13	20	14	10	6	7	6	6	50	12
Noakbali	20	16	20	17	...	7	7	7	7	50	...
Pabna	20	15	20	15	10	10	7	6	7	56	12
Rajshahi	19	16	22	15	8	10	8	6	7	56	9
Rangpur	20	16	22	18	9	8	9	6	7	48	14
Tippera	21	18	20	16	...	7	7	6	7	58	12
24 Parganas	20	15	20	17	10	10	7	7	7	58	12

Published in the "*Calcutta Gazette*", Part I, dated the 30th January 1941.
JUDICIAL AND LEGISLATIVE DEPARTMENTS.

Darjeeling-Mymensingh.—No. 240J.—22nd January 1941.—In exercise of the power conferred by sub-section (1) of section 92 of the Government of India Act, 1935, the Governor is pleased to direct that the **Arbitration Act, 1940** (X of 1940), shall apply to the Darjeeling district and the partially excluded areas of the Mymensingh district, subject to the following modification, namely:—

For sub-section (3) of section 1 of the said Act, the following sub-section shall be substituted, namely:—

"(3) It shall come into force in the Darjeeling district of Bengal and the partially excluded areas of the Mymensingh district of Bengal on the 1st day of February 1941."

Darjeeling-Mymensingh.—No. 321J.—27th January 1941.—In exercise of the power conferred by sub-section (1) of section 92 of the Government of India Act, 1935, the Governor is pleased to direct that the **Administrator-General's (Bengal Amendment) Act, 1940** (Bengal Act XI of 1940), shall apply to the Darjeeling district and to the partially excluded areas of the Mymensingh district, subject to the following modification, namely:—

For sub-section (2) of section 1 of the said Act the following sub-section shall be substituted, namely:—

"(2) It shall come into force in the Darjeeling district and the partially excluded areas of the Mymensingh district on the 15th day of February 1941."

Darjeeling-Mymensingh.—No. 322J.—27th January 1941.—In exercise of the power conferred by sub-section (1) of section 92 of the Government of India Act, 1935, the Governor is pleased to direct that the **Official Trustees (Bengal Amendment) Act, 1940** (Bengal Act XII of 1940), shall apply to the Darjeeling district and to the partially excluded areas of the Mymensingh district, subject to the following modification, namely:—

For sub-section (2) of section 1 of the said Act the following sub-section shall be substituted, namely:—

"(2) It shall come into force in the Darjeeling district and the partially excluded areas of the Mymensingh district on the 15th day of February 1941."

DEPARTMENT OF COMMERCE AND LABOUR.

No. 196Com.—21st January 1941.—In exercise of the power conferred by sub-section (1) of section 92 of the Government of India Act, 1935, the Governor is pleased to direct that the **Motor Spirit (Duties) Amendment Act, 1940** (Act No. XXXIX of 1940), shall apply to the Darjeeling district and to the partially excluded areas of the Mymensingh district, with effect from the date of publication of this notification in the *Calcutta Gazette*.

Published in the "*Calcutta Gazette*", Part I, dated the 6th February 1941.

CO-OPERATIVE CREDIT AND RURAL INDEBTEDNESS DEPARTMENT.

No. 274R. I.—28th January 1941.—In exercise of the powers conferred by section 55 of the **Bengal Agricultural Debtors Act, 1935** (Bengal Act VII of 1936), the Governor is pleased to make the follow-

ing amendments in the Bengal Agricultural Debtors Rules, 1936, published with notification No. 9187L. R., dated the 26th June 1936, as subsequently amended, namely—

(1) In the schedule attached to rule 136 of the said rules, after item 7 insert the following :—

"7A. On an application by a party Twelve annas. Applicant.
to the Collector under section
39(1) for the transfer of an
application made under section 8."

N. B.—The fee is not payable when the Collector makes the transfer on his own motion or on the motion of the Board."

(2) In sub-rules (1) and (2) of rule 138 of the said rules after the words "or Appellate Officer" insert the words "or Collector".

No. 293 R.I.—29th January 1941.—In exercise of the powers conferred by section 55 of the Bengal Agricultural Debtors Act, 1935 (Bengal Act VII of 1936), the Governor is pleased to make the following amendment in the Bengal Agricultural Debtors Rules, 1936, published with notification No. 9187L. R., dated the 26th June 1936, as subsequently amended, namely:—

In the Schedule to rule 136 of the said rules, after item 12 insert the following item:—

Fees.	Amount.	By whom payable.
"13. For a Mukhtarnama or Wakalatnama when presented for the conduct of an appeal before an Appellate Officer.	One rupee for each such Mukhtarnama or Wakalatnama.	Parties concerned represented by the legal practitioner."

HOME DEPARTMENT.

No. 201A. R.—4th February 1941.—In exercise of the power conferred by sub-section (1) of section 92 of the Government of India Act, 1935, the Governor is pleased to direct that the Indian Coinage (Third Amendment) Ordinance, 1940, (Ordinance No. XIV of 1940), shall apply to the Darjeeling district and to the partially excluded areas of the Mymensingh district with effect from the date of publication of this notification in the *Calcutta Gazette*.

Published in the "*Calcutta Gazette*", Part I, dated the 19th December 1940.

LEGISLATIVE DEPARTMENT.

No. 1328L.—13th December 1940.—In exercise of the power conferred by sub-section (1) of section 92 of the Government of India Act, 1935, the Governor is pleased to direct that the **Repealing and Amending Act, 1940** (XXXII of 1940), shall apply to the Darjeeling district and to the partially excluded areas of the Mymensingh district in so far as it affects any enactment at present in force in that district or those areas, with effect from the date of publication of this notification in the *Calcutta Gazette*.

Published in the "*Calcutta Gazette*", Part I, dated the 26th December 1940

HOME DEPARTMENT.

No. 7641P.—18th December 1940.—In exercise of the power conferred by sub-section (1) of section 92 of the Government of India Act,

1935, the Governor is pleased to direct that the **Indian Works of Defence (Amendment) Act, 1940** (XXVIII of 1940), shall apply to the Darjeeling district and to the partially excluded areas of the Mymensingh district, with effect from the 30th November 1940.

No. 7702P.—19th December 1940.—In exercise of the power conferred by sub-section (1) of section 92 of the Government of India Act, 1935, the Governor is pleased to direct that the **Cantonments (Amendment) Act, 1940** (XXXI of 1940), shall apply to the Darjeeling district.

DEPARTMENT OF COMMERCE AND LABOUR.

No. 4066Com.—17th December 1940.—In exercise of the power conferred by sub-section (1) of section 92 of the Government of India Act, 1935, the Governor is pleased to direct that the **Reserve Bank of India (Amendment) Act, 1940** (Act IX of 1940), shall apply to the Darjeeling district and to the partially excluded areas of the Mymensingh district, with effect from the date of publication of this notification in the *Calcutta Gazette*.

Published in the "*Calcutta Gazette*", Part I, dated the 13th February 1941.

JUDICIAL AND LEGISLATIVE DEPARTMENTS.

No. 512J.—10th February 1941.—In exercise of the power conferred by sub-section (1) of section 35 of the **Court-fees Act, 1870** (v of 1870), the Governor is pleased to direct that the following amendment shall be made in the notification No. 2332J., dated the 4th March 1938, as amended by notification No. 2765J., dated 8th August 1940, relating to the reduction and remission of the fees mentioned in Schedules I and II to the said Act, namely:—

Amendment.

Omit the words "within three years before death" from the sub-clause (i) of clause (31) of the said notification.

CO-OPERATIVE CREDIT AND RURAL INDEBTEDNESS DEPARTMENT.

No. 355R. I.—4th February 1941.—In exercise of the powers conferred by section 55 of the **Bengal Agricultural Debtors Act, 1935** (Bengal Act VII of 1936), the Governor is pleased to make the following amendment in the Bengal Agricultural Debtors Rules, 1936, published with notification No. 9187L. R., dated the 26th June 1936, as subsequently amended, namely—

After rule 54, insert the following heading and rules, namely:—

Settlement of an insolvent debtor's debts under section 22(1).

"54A. The debtor whose annual surplus income is above 1/30th of his debt (sum total of all his debts) reduced under section 19 but is too small to allow of the repayment of his debt thus reduced within twenty years may, if otherwise suitable, be treated under section 22 (1) (a). The order of the Board shall in that case be embodied in an award in Form XII.

54B. The debtor who has no surplus income or whose annual surplus income is below 1/30th of his debts (sum total of all his debts) reduced under section 19 may, if otherwise suitable, be treated under section 22(1) (b). The order of the Board shall in that case be embodied in an award in Form XIV.

DEPARTMENT OF COMMERCE AND LABOUR.

No. 383 Com.—6th February 1941.—In exercise of the power conferred by sub-section (1) of section 92 of the Government of India Act, 1935, the Governor is pleased to direct that the **War Donations and Investments (Companies) Act, 1940** (Act No. XXXVII of 1940), shall, with effect from the date of publication of this notification in the *Calcutta Gazette*, apply to the Darjeeling district and to the partially excluded areas of the Mymensingh district, subject to the following modifications, namely:—

In section 4 of the said Act for the words "commencement of this Act" the words "Application of this Act to the Darjeeling district and to the partially excluded areas of the Mymensingh district in Bengal" and for the words "the commencement", the words "such application" shall be substituted.

No. 388 Com.—7th February 1941.—In exercise of the power conferred by sub-section (1) of section 92 of the Government of India Act, 1935, the Governor is pleased to direct that the **Reserve Bank of India (Third Amendment) Act, 1940** (Act XXXVIII of 1940), shall apply to the Darjeeling district and to the partially excluded areas of the Mymensingh district with effect from the date of publication of this notification in the *Calcutta Gazette*.

Published in the "*Calcutta Gazette*", Part I, dated the 20th February 1941.

DEPARTMENT OF PUBLIC HEALTH AND LOCAL SELF-GOVERNMENT.

No. 248 P.H.—11th February 1941.—In exercise of the power conferred by section 4 of the **Bengal Food Adulteration Act, 1919** (Bengal Act VI of 1919) the Governor is pleased to declare the substances mentioned below to be the normal constituents of sugar:—

Sugar is any substance sold as sugar, including all varieties of it, in trade and shall contain not less than 96.5 per cent. of saccharose and shall have not more than 0.7 per cent. of ash, calculated on the dried substance.

This cancels notification No. 1258 P.H., dated the 16th August 1940.

No. 249 P.H.—11th February 1941.—In exercise of the power conferred by sub-section (3) of section 1 of the **Bengal Food Adulteration Act, 1919** (Bengal Act VI of 1919), read with section 22 of the Bengal General Clauses Act, 1899 (Bengal Act I of 1899), the Governor is pleased to direct that sugar shall be added to the list of articles of food mentioned in notification No. 1575 P.H., dated the 28th July 1927, as subsequently amended by notification No. 984 P.H., dated the 8th April 1935, and the operation of the Bengal Food Adulteration Act, 1919, shall also extend to the said article of food.

No. 250 P.H.—11th February 1941.—In exercise of the powers conferred by clauses (a) and (d) of sub-section (2) of section 20 of the **Bengal Food Adulteration Act, 1919** (Bengal Act VI of 1919), the Governor is pleased to make the following amendments in the rules published under notification No. 1577 P.H., dated the 24th July 1930.

Amendments.

(1) After clause (10) of rule 2 of the said rules, add the following:—

(11) *Sugar*.—Where a sample of sugar contains less than 96.5 per cent. of saccharose or the proportion of ash in it, calculated on the dried substance, exceeds 0.7 per cent., it shall be presumed until the contrary is

proved that the sugar is not genuine by reason of the presence therein of extraneous matter."

(2) After rule 2 of the said rules, *insert* the following rule :—

"2A. Sugar whether sold, exposed or hawked about for sale, or manufactured or stored for sale shall contain not less than 96.5 per cent. of saccharose and shall have not more than 0.7 per cent. of ash, calculated on the dried substance."

No. 251P.H.—11th February 1941.—In exercise of the power conferred by sub-section (3) of section 1 of the **Bengal Food Adulteration Act, 1919** (Bengal Act VI of 1919), read with section 22 of the Bengal General Clauses Act, 1899 (Bengal Act I of 1899), the Governor is pleased to direct that sugar shall be added to the list of articles of food mentioned in notification No. 76T.R., dated the 25th April 1934, as subsequently amended by notification No. 415T.R., dated the 15th May 1936, and the operation of the Bengal Food Adulteration Act, 1919, in the district of Darjeeling, shall also extend to the said article of food.

No. 252P.H.—11th February 1941.—In exercise of the powers conferred by clauses (a) and (d) of sub-section (2) of section 20 of the **Bengal Food Adulteration Act, 1919** (Bengal Act VI of 1919), the Governor is pleased to make the following amendments in the rules published under notification No. 12 987Ex. A., dated the 5th December 1934, as subsequently amended by No. 12057Ex. A., dated the 22nd August 1936.

Amendments.

(1) After item 8 of rule 2 of the said rules, *add* the following :—

"(9) *Sugar*.—Where a sample of sugar contains less than 96.5 per cent. of saccharose or the portion of ash in it, calculated on the dried substance, exceeds 0.7 per cent., it shall be presumed until the contrary is proved that the sugar is not genuine by reason of the presence therein of extraneous matter."

(2) After rule 2 of the said rules, *insert* the following rule :—

"2A. Sugar whether sold, exposed or hawked about for sale, or manufactured or stored for sale shall contain not less than 96.5 per cent. of saccharose and shall have not more than 0.7 per cent. of ash, calculated on the dried substance."

Published in the "*Calcutta Gazette*", Part I, dated the 27th February 1941.
HOME DEPARTMENT.

No. 298A.R.—19th February 1941.—In exercise of the power conferred by sub-section (1) of section 92 of the **Government of India Act, 1935**, the Governor is pleased to direct that the Bengal Legislature (Removal of Disqualifications) Act, 1937 (Bengal Act III of 1937), and the Bengal Legislature (Removal of Disqualifications Amendment) Act, 1940 (Bengal Act XIX of 1940), shall apply to the Darjeeling district and to the partially excluded areas of the Mymensingh district with effect from the date of publication of this notification in the *Calcutta Gazette*.

LEGISLATIVE DEPARTMENT.

No. 233L.—24th February, 1941.—The following Regulation made by the Governor under sub-section (2) of section 92 of the Government of India Act, 1935, has been assented to by the Governor-General, and is hereby published for general information :—

The Mymensingh Partially Excluded Areas Tenancy (Amendment) Regulation, 1941.

Bengal Regulation No. 1 of 1941.

[Assent of the Governor-General was first published in the *Calcutta Gazette* of the 27th February 1941.]

A Regulation to amend the Mymensingh Partially Excluded Areas Tenancy Regulation, 1940, for a certain purpose.

WHEREAS it is expedient to amend the Mymensingh Partially Excluded Areas Tenancy Regulation, 1940, for the purpose hereinafter appearing :

It is hereby enacted as follows :—

1. *Short title.*—This Regulation may be called the Mymensingh Partially Excluded Areas Tenancy (Amendment) Regulation, 1941.

2. *Amendment of section 2 of Bengal Regulation III of 1940.*—For sub-section (2) of section 2 of the Mymensingh Partially Excluded Areas Tenancy Regulation, 1940, the following sub-section shall be substituted and shall be deemed always to have been substituted, namely :—

“(2) Notwithstanding anything contained in any other law for the time being in force or in any contract between the parties made before or after the commencement of this Regulation, any person who, under any system such as ‘*tanka*’, ‘*ohukti barga*’ or ‘*dhanya-karari*’ holds, or cultivates the land of another person on the condition of delivering to that person a fixed quantity of agricultural produce as distinguished from a fixed or fluctuating share of such produce, shall, from the date of commencement of such holding or cultivation by him or his predecessor in interest, as the case may be, be deemed to be a tenant in respect of such land within the meaning of the term ‘tenant’ as used in the Bengal Tenancy Act, 1885”.

REVENUE DEPARTMENT.

Mymensingh.—No. 1895L.R.—21st February 1941.—His Excellency the Governor General has assented to the **Mymensingh Partially Excluded Areas Tenancy (Amendment) Regulation, 1941**, made by His Excellency the Governor under sub-section (2) of section 92 of the Government of India Act, 1935.

Darjeeling Mymensingh.—No. 1907Emi.—21st February 1941.—In exercise of the power conferred by sub-section (1) of section 92 of the **Government of India Act, 1935**, the Governor is pleased to direct that the Indian Emigration (Amendment) Act, 1938 (XXI of 1938), and the Indian Emigration (Amendment) Act, 1940 (VIII of 1940), shall apply to the Darjeeling district and to the partially excluded areas of the Mymensingh district with effect from the date of publication of this notification in the *Calcutta Gazette*.

Published in the “*Calcutta Gazette*”, Part I, dated the 13th March 1941.

JUDICIAL AND LEGISLATIVE DEPARTMENTS.

No. 809J.—27th February 1941.—In exercise of the power conferred by sub-section (2) of section 101 of the **Bengal Village Self-Government Act, 1919** (Bengal Act V of 1919), the Governor is pleased to make the following amendment to the first paragraph of rule 3 of the rules published with notification No. 5649J., dated the 13th August 1926, for the guidance of union benches and union courts :—

Amendment.

For the first paragraph of rule 3 of the said rules, substitute the following, namely :—

"Each bench or court shall have a seal and shall use the same on all processes, warrants and orders issued by it.

The seal shall be of the form and shall contain only the particulars, either in Bengali or in English, shown in the figure annexed to these rules.

[For the Seal see page 586 of Part I of *Calcutta Gazette*, 1941. Editor.]

It shall not be lawful for any union bench or court to use any seal other than the seal prescribed in this rule and no addition or alteration of any form whatsoever shall be made in the seal so prescribed."

DEPARTMENT OF COMMERCE AND LABOUR.

No. 706Cm.—7th March 1941.—In exercise of the power conferred by sub-section (1) of section 92 of the Government of India Act, 1935, the Governor is pleased to direct that the **Indian Sale of Goods (Amendment) Act, 1940** (XLI of 1940), shall, with effect from the date of publication of this notification in the *Calcutta Gazette*, apply to the Darjeeling district and to the partially excluded areas of the Mymensingh district, subject to the following modifications, namely:—

that in sub-section (2) of section 3 of the said Act, for the words "commencement of this Act" wherever they occur, the words "application of this Act to the Darjeeling district and to the partially excluded areas of the Mymensingh district in Bengal" shall be substituted.

No. 2454L.R.—10th March 1941.—In exercise of the powers conferred by section 189 and sub-section (6) of section 190 of the **Bengal Tenancy Act, 1885** (VIII of 1885), the Governor is pleased to make the following amendments in the rules published under notification No. 5462L.R., dated the 26th March 1929, at pages 549-592 in Part I of the *Calcutta Gazette* of the 28th idem, as subsequently amended, namely:—

1. In sub-rule (1) of rule 25A of the said rules, for the words "Revenue Officer or Collector" substitute the words "or Revenue Officer."

2. For sub-rule (2) of rule 25A of the said rules, substitute the following:—

"(2) The Registering Officer, Civil Court or Revenue Officer, as the case may be, shall send the notices referred to in sub-rule (1) to the Collector, who shall cause them to be served on the landlords (or their common agent or common manager, if any) and co-sharer tenants named in them in the manner provided in rule 27.

(3) (a) The process fees as required by section 26C of the Act for service of the notices referred to in this rule shall be levied according to the scale specified below:—

(i) For each notice, whether directed to one or more persons where such persons reside in the same village.—Annas 8.

(ii) Where the notice is to be served on persons in different villages a separate fee shall be charged for service in each village.

(b) Throughout or any part of the local areas mentioned in the table below and for the period of the year during which travelling except by boat is, in the opinion of the Collector, impracticable, an additional process fee shall be levied for service of the notices referred to in this rule at the rate mentioned against each such local area in the said table to provide for payment of the boat-hire or ferry toll:—

District.	Local area.	Additional fee. Annas.
24-Parganas	Sadar, Basirbat and Diamond Harbour subdivisions.	4
Jessore	Sadar, Jhenidah, Magura and Narail subdivisions.	4
Nadia	The whole district	1
Dacca	Ditto	5
Faridpur	Ditto	3
Malda	Ditto	1
Rangpur	The Kurigram and Gaibandha subdivisions.	2
Pabna	The whole district	7
Noakhali	Ditto	2
Murshidabad	Ditto	1
Khulna	Ditto	3
Hooghly	Arambagh subdivision and Char Khasmahals in the police-stations Magra and Bolagarh in the Sadar subdivision.	2
Mymensingh	The whole district	4
Bakerganj	Ditto	3
Rajshahi	Ditto	4
Bogra	Ditto	3
Tippera	Ditto	3

(c) The process fees payable under this rule shall be paid in court fee stamps.

3. In rule 27 of the said rules :—

(a) in sub-rule (1), for the word and figures "rule 25" substitute the words, figures and letter "rules 25 and 25A", and

(b) at the end of sub-rule (2) add the following sub-rule :—

"(3) If after issue of a notice the party concerned appears and files a fresh notice in the proper form together with the necessary process fee to remedy any defect in the former notice, the fresh notice shall be served in the manner provided in this rule."

4. In form No. 3 appended to the said rules, omit, the word "Collector", wherever it occurs.

CO-OPERATIVE CREDIT AND RURAL INDEBTEDNESS DEPARTMENT.

No. 637R.L.—6th March 1941.—In exercise of the powers conferred by section 55 of the Bengal Agricultural Debtors Act, 1935 (Bengal Act VII of 1936), the Governor is pleased to make the following amendments in the Bengal Agricultural Debtors Rules 1936, published with notification No. 9117L.R., dated the 26th June 1936, as subsequently amended, namely :—

For column 9 of Schedule A to Form I of the forms appended to the said rules substitute the following :—

Amount (if any) admitted by the debtor.	
9	
Principal. (a)	Interest. (b)

Published in the "*Calcutta Gazette*", Part I, dated the 20th March 1941.

HOME DEPARTMENT.

No. 431A.R.—14th March 1941.—The following notification by the Secretary to the Governor of Bengal is hereby published for general information:—

"Notification No. 448, dated the 10th March 1941.—In His Majesty's name, His Excellency the Governor has assented to the **Official Trustees (Bengal Amendment) Bill, 1940.**

M. O. CARTER,
Secretary to the Governor."

Published in the "*Calcutta Gazette*", Part I, dated the 27th March 1941.

FINANCE DEPARTMENT.

No. 2420F.B.—22nd March 1941.—In exercise of the power conferred by sub-section (1) of section 92 of the **Government of India Act, 1935**, the Governor is pleased to direct that the Bengal Revenues (Charged Expenditure) Act, 1940 (Bengal Act XIII of 1940), shall apply to Darjeeling district and to the partially excluded areas of the Mymensingh district in so far as it affects any enactment specified in the Second Schedule thereof which is in force in that district or those areas.

DEPARTMENT OF COMMERCE AND LABOUR.

No. 841Com.—19th March 1941.—In exercise of the power conferred by sub-section (1) of section 92 of the Government of India Act, 1935, the Governor is pleased to direct that the Indian Companies (Amendment) Act, 1938 (Act No. 11 of 1938), shall, with effect from the date of publication of this notification in the *Calcutta Gazette*, apply to the Darjeeling district and to the partially excluded areas of the Mymensingh district.

No. 850Com.—20th March 1941.—In exercise of the power conferred by sub-section (3) of section 1 of the **Bengal Shops and Establishments Act, 1940** (Bengal Act XVI of 1940), the Governor is pleased to appoint the 1st April 1941 as the date on which the said Act shall come into force.

No. 911Com.—24th March 1941.—In exercise of the powers conferred by section 21 of the **Bengal Shops and Establishments Act, 1940** (Bengal Act XVI of 1940), the Governor is pleased to make the following rules for carrying out the purposes of the said Act, the same having been previously published as required by sub-section (1) of the said section, namely:—

The Bengal Shops and Establishments Rules, 1941.

1. **Short title.**—These rules may be called the Bengal Shops and Establishments Rules, 1941.

2. **Definitions.**—In these rules, unless there is anything repugnant in the subject or context,—

- (a) "the Act" means the Bengal Shops and Establishments Act, 1940;
- (b) "Form" means a form appended to these rules;
- (c) "Government" means the Provincial Government of Bengal;

(d) "section" means a section of the Act ;

(e) words and expressions used in the Act and not defined in these rules shall have the meanings assigned to them in the Act.

3. *Suspension of provisions of the Act.*—Government may by notification in the *Calcutta Gazette* suspend the operation of all or any of the provisions of the Act under sub-section (3) of section 4, at the time of the following holidays and occasions for such number of days as may be deemed necessary :—

Akshoy Tritiya.

Bakrid.

Basanta Panchami.

Chait Sankranti.

Dewali.

Durga Puja.

Fateba Doazdabum.

Holi.

First Baisakh.

Id-ul-Fitr.

Jagatdhatri Puja.

Ramnabami.

Ramzan.

Rath Jatra.

X'mas and New Year's Day.

Any occasion on which a public emergency is declared in this behalf by Government.

Public fairs or exhibitions or religious festivals recognised in this behalf by Government

4. *Manner of calculating the ordinary rate of wages.*—For the purpose of section 13 the ordinary rate of wages per hour shall be calculated in the following manner :—

Ordinary rate of wages per hour.

Persons employed.	If the person is employed on daily wages.	If the person is employed on weekly wages.	If the person is employed on monthly wages.
A person employed in a shop or in an establishment for public entertainment or amusement.	1/10th of the amount of daily wages.	1/56th of the amount of weekly wages.	1/243rd of the amount of monthly wages.*

*A month consists of $4\frac{1}{3}$ weeks on an average ($52 \div 12$ months = $4\frac{1}{3}$ weeks a month).

$4\frac{1}{3} \times 56$ hours per week = 243 hours per month.

5. *Disqualifications of an Inspector.*—No person shall be appointed to be an Inspector under the Act or, having been so appointed, shall continue to hold office, who is or becomes directly or indirectly interested in any shop or establishment to which the Act applies.

6. *Method of inspection.*—(1) The Inspector shall not as far as possible cause any suspension of business in conducting the inspection.

(2)(a) An Inspector, making an examination under section 16, shall make such examination of the place and of any prescribed register, record or notice maintained therein as may appear to him necessary for the purpose

of satisfying himself that the provisions of the Act, these rules, and any orders passed by Government under the Act are being properly observed. In particular he shall satisfy himself—

(i) that the registers, records and notices required to be maintained or exhibited under the Act or these rules are properly maintained or exhibited ;
 (ii) that the intervals of rest and the holidays required to be granted under the Act are granted and that the limits of hours of work and spread over laid down under the Act are not exceeded ;

(iii) that the provisions of the Act relating to the payment for overtime work are duly observed ;

(iv) that the provisions of the Act and any orders issued by Government regarding the closing hours are duly observed.

(b) For carrying out such examination, the inspector may interrogate such persons on the place, as he may deem necessary, provided that no such person shall be required under this rule to answer any question the answer to which might tend to criminate him.

(3) There shall be no inspection during a holiday nor during hours of half holiday referred to in rule 9 nor on days notified under sub-section (3) of section 4 for suspension of the provisions of the Act.

(4) If the Inspector during his inspection finds deviations from the provisions of the Act or these rules, he shall pass orders or make recommendations for remedying or removing these defects, and, in such a case, he shall either endorse the same in the visit book maintained by the shop-keeper or employer or he shall send a copy of his inspection notes to the shop or establishment concerned within seven days from the date of inspection.

(5) Inspectors shall inspect each shop at least once in three months and each establishment once a year.

(6) One of the inspectors appointed under the Act will be designated as the Chief Inspector. The Chief Inspector shall have all the powers of an Inspector, and shall direct and supervise the work of Inspectors.

(7) The Chief Inspector may call for such information from shops and establishments as may be necessary for the efficient administration of the Act and these rules.

7. *Entries in registers and their preservation.*—(1) All registers to be maintained under these rules shall be in English or in Bengali, Urdu, Hindi, Marwari or Gujarati and all dates entered in a register shall be in accordance with English calendar. Entries shall be made in ink and shall be legible.

(2) All registers, records, and notices, relating to any calendar year shall be preserved and be available in the shop or establishment for examination by the Inspector till the end of the next calendar year.

(3) Entries relating to any day, week or year in any of the prescribed registers shall be made soon after the close of such day, week or year except in so far as otherwise permitted under these rules and shall be signed by the shop-keeper or employer.

8. *Visit book.*—(1) Every shop-keeper or employer shall maintain a visit book in which an Inspector visiting the shop or establishment may record his remarks regarding any defects that may come to light at the time of his inspection and shall produce it whenever required to do so by an Inspector.

(2) All orders, letters, reports, or other documents issued by an Inspector with respect to the provisions of the Act shall be properly filed and preserved for a period of 12 months and shall be available in the shop or establishment for examination by the Inspector.

(3) Any demand by an Inspector for any information relating to the working of the Act, if made during the course of an inspection, shall be complied with forthwith, if the information can be made easily available in the shop or establishment, or if made in writing, shall be complied with within fifteen days of receipt thereof.

9. *Display of notice by shop-keeper.*—Every shop-keeper shall display a notice in Form A in a conspicuous place in the shop specifying the days of the week on which the shop will remain closed for the full day and for half day. He shall not alter the days so specified more often than once in every three months. A copy of the notice and all changes in such notice shall be sent immediately to the Chief Inspector.

10. *Register of weekly holidays.*—Every shop-keeper or employer in a commercial establishment and an establishment for public entertainment or amusement shall maintain a register in Form B showing the weekly holidays allowed to the persons employed.

11. *Register showing hours of work and rest.*—Every shop-keeper and employer in an establishment for public entertainment or amusement shall maintain a register in Form C showing the daily hours of actual work and hours of rest against the names of the employees.

12. *Overtime work register.*—Every shop-keeper and employer in an establishment for public entertainment or amusement shall maintain a register in Form D showing the overtime work done in every month by the persons employed.

13. *Leave register.*—Every shop-keeper or employer shall maintain a register in Form E showing leave allowed to the persons employed, for the whole year. Entries regarding leave granted shall be made in the register within 15 days from the end of each month.

14. *Pay register.*—Every shop-keeper or employer shall maintain a pay register in Form F and the payments shall be certified by the shop-keeper or employer in the presence of two witnesses in the manner specified therein.

15. *Special registers and records.*—If on an application made by an employer or shop-keeper in writing, the Government is satisfied that any register or record maintained by such employer or shop-keeper gives in respect of the persons employed by him the particulars required to be shown in any register or record to be maintained under these rules, the Government may, by order in writing, direct that the register or record so maintained by the employer or shop-keeper shall to the corresponding extent be deemed to be a register or record maintained under these rules.

16. *Notice of extension of periods of work.*—Notice of the intention to require persons employed in a shop or in an establishment for public entertainment or amusement to work on any day in excess of the period of work specified in sub-section (2) of section 7 or sub-section (1) of section 10 shall be given to the Inspector within whose jurisdiction such shop or establishment is situated, at least 24 hours before such day;

Provided that if the employer or the shop-keeper for reasons beyond his control is unable to give the requisite notice at least 24 hours before such day, he shall give the notice on the next day at the least.

17. *Leave.*—No part of the privilege leave earned by a person employed in a shop, commercial establishment or establishment for public entertainment or amusement shall be allowed to lapse by the refusal of the employer or shop-keeper to grant such leave. The grant of leave may however be regulated according to convenience of work of the shop or

establishment concerned, provided that the leave due is granted within the first six months following the 12 months during which the leave has been earned if the employee does not wish to accumulate and wishes to go on leave, or, if the leave has been accumulated, it is granted within the first six months following the 24 months during which the leave has been earned.

18. *Appeals.*—(1) A shop-keeper or employer may, within 30 days of the date on which an Inspector endorses an order or recommendation in the visit book or of the receipt of the copy of inspection note relating to any order passed or recommendation made by an Inspector, as the case may be, appeal against such order or recommendation to such authority as the Government may appoint in this behalf, or until such authority is appointed to Government and such authority or the Government, as the case may be, may confirm, modify or reverse the order or recommendation.

(2) The notice of appeal shall be in the form a memorandum setting forth concisely the grounds of objection to the order or recommendation against which the appeal is preferred and bearing a court-fee stamp of annas eight and shall be accompanied by a copy of such order or recommendation.

19. *Penalty.*—Any person contravening the provisions of rules 7, 8, 9, 10, 11, 12, 13, 14, 16 or 17 of these rules shall on conviction be punishable with fine, which may extend to fifty rupees and where the breach is a continuing one, with a further fine which may extend to five rupees for every day, after the first during which the breach continues.

Form A.

[Section 6 (3) of the Act.]

(Rule 9.)

Notice under rule 9 to be displayed in a conspicuous place in the shop (for 3 months from..... to.....)

Until further notice this shop shall remain entirely closed and closed for half days each week as noted below.

Full day.....*

Half day (from..... to.....)*

*The day to be mentioned here.

Signature of the shop-keeper.

Date.....

Form B.

[Sections 6 (1), 8 (1) and 9 (1) of the Act.]

(Rule 10.)

Weekly holidays.

Name of shop-keeper or employer.....

Names of employees.	Day on which full holiday is allowed.	Day on which half holiday is allowed.
1.		
2.		
3.		
4.		

Shop-keeper.

Signature of employer.

Form C.

[Sections 7 (2), 7 (3), 7 (4), 10 (1), 10 (2) and 10 (3) of the Act.]

(Rule 11.)

Daily periods of work of persons employed in shops and establishments for public entertainment or amusement.

Name of employer or shop-keeper _____

Daily periods of work commencing _____

19 _____

Names of persons employed.	Day.		
	Employment to commence.	Interval for rest.	Employment to cease.
1.			
2.			
3.			
4.			

*Signature of employer or shop-keeper.**Note.*—1. Hours to be specified in this register shall be the hours to be worked exclusive of overtime.

2. Interval for rest shall be shown by the actual times at which the intervals are to begin and end (e.g. 1 p.m. to 2 p.m.).

Form D.

[Sections 7 (2), 10 (1) and 13 of the Act.]

(Rule 12.)

Register of overtime work.

Name of shop-keeper or employer _____

Year _____

Month _____

Names of persons employed.	Days on which overtime work is done and extent of such overtime on each occasion.	Total of overtime work during the month.
1.		
2.		
3.		
4.		

*Signature of employer or shop-keeper.***Form E.**

[Section 12 of the Act.]

(Rule 13.)

Leave Register.

Name of employer or shop-keeper _____

Year of employment _____

Names of employees.	Date on which leave taken.		Total period of leave during the year.		Balance of privilege leave accumulated.
	Privilege.	Casual.	Privilege.	Casual.	
1.					
2.					
3.					
4.					

Signature of employer or shop-keeper. _____

Form F.[Section 11 of the Act.]
(Rule 14.)

Pay Register.

Year _____

Names of employees.	Rate of wages (per month, week or day).	Additional wages for overtime work.	Total amount paid as wages.	Remarks.
1.				
2.				
3.				
4.				

This is to certify that I have to-day in the presence of witnesses testifying herewith paid the amount of Rs. _____ in wages to the persons employed by me and that each employee has received from me the amount due as specified against his name above.

Witnesses :—

1. _____
2. _____

Signature of employer or shopkeeper. _____

Date _____

Date _____

Note.—When the payment is made by money order the fact may be stated in the remarks column.

Published in the "Calcutta Gazette", Part 1, dated the 3rd April 1941.

DEPARTMENT OF COMMUNICATIONS AND WORKS (COMMUNICATIONS AND BUILDINGS).

No. 2C-27th March 1941.—In exercise of the powers conferred by section 12 of the Bengal Motor Vehicles Tax Act, 1932 (Bengal Act I of 1932), the Governor is pleased to make the following amendments in the Bengal Motor Vehicles Tax Rules, 1933, published under notification No. 5859 L.S.G. dated the 31st October 1933, as subsequently amended.

Amendments.

(1) In rule 3 of the said rules:—

(i) in clause (a) for the words "in cash or by cheque on a Calcutta clearing bank; and" substitute the words "in cash or by money order or by cheque";

(ii) in clause (b) after the word "treasury" in the first place where it occurs insert the words "or by money order or by cheque"; and

(iii) after clause (b) as so amended insert the following:—

(c) No cheque other than one drawn on a bank which has a clearing account with the Reserve Bank of India shall be accepted by the Taxing Officer in Calcutta;

(d) No cheque other than one drawn on a bank which has a clearing account with the branch of the Imperial Bank of India at the place in which the office of the Taxing Officer is situated shall be accepted by a Taxing Officer in any place outside Calcutta;

(e) No cheque not drawn in favour of the Taxing Officer by designation shall be accepted; and

(f) No money order shall be accepted by the Taxing Officer unless it is addressed to such Taxing Officer and gives the necessary particulars; such as the number of the motor vehicle, the period for which the tax is proposed to be paid and the amount of the tax remitted.

(2) In rule 20 of the said rules for the words "owners or officers in charge of motor vehicles" substitute the word "persons".

DEPARTMENT OF COMMERCE AND LABOUR.

No. 993 Com.—31st March 1941.—In exercise of the power conferred by clause (r) of sub-section (1) of section 5 of the **Bengal Shops and Establishments Act, 1940** (Bengal Act XVI of 1940), the Governor is pleased to exempt the shops dealing in books from the operation of the provisions of sub-section (1) and of sub-section (2), excepting those of the proviso to sub-section (2) of section 7 of the said Act for the period from the 15th December to the end of February.

No. 999 Com.—1st April 1941.—In exercise of the powers conferred by sub-section (2) of section 5 of the **Bengal Shops and Establishments Act, 1940** (Bengal Act XVI of 1940), the Governor is pleased to declare that shops dealing wholesale in tobacco, cigars, cheroots, cigarettes and biris shall not be exempt from the operation of any of the provisions of the said Act and that all the provisions of the said Act shall apply to such shops.

CO-OPERATIVE CREDIT AND RURAL INDEBTEDNESS DEPARTMENT.

No. 888R.I.—31st March 1941.—In exercise of the powers conferred by section 55 of the **Bengal Agricultural Debtors Act, 1935** (Bengal Act VII of 1936), the Governor is pleased to make the following amendments in the Bengal Agricultural Debtors Rules, 1936, published with notification No. 9187 L. R., dated the 26th June 1936, as subsequently amended, namely:—

(1) For rule 73 of the said rules substitute the following:—

"73. (1) Notice shall be given by a Board/an Appellate Officer/a Revisional Authority to a court under section 34 in form XV and a notice for its withdrawal shall be in form XXXIV.

(2) A notice under section 33 (for staying execution of decrees) shall be given by a Board/an Appellate Officer/a Revisional Authority to a court in form XXI".

(2) For existing forms XV, XXXI and XXXIV appended to the said rules, substitute the following forms, respectively :—

Form XV.

(See rule 73.)

Notice to a Court under section 34 of the Bengal Agricultural Debtors Act, 1935.

Proceedings No. Year.....

To

The.....

Sir,

I have the honour to give notice under section 34 of the Bengal Agricultural Debtors Act, 1935, that an application made/a statement of debt/a memorandum of appeal/an application for revision submitted to this Board/filed in this Court/forwarded/transferred to this Court..... under section 8/sub-section (1) of section 13/under section 40/40A of the said Act includes a debt claimed to be owing from..... son/wife of.....

..... caste..... resident at.....

..... in respect of which suit/proceedings No.....

dated..... is/are said now to be pending before you between

..... son/wife of..... caste.....

resident at..... and the said.....

I have the honour to be,

Sir,

Your most obedient servant,

Seal of the Board/Court.

Signature.....

Date.....

Chairman..... Debt Settlement Board.

Ordinary Appellate Officer.....

Special Appellate Officer.....

District Judge.....

Additional District Judge.....

*Name of creditor to be entered here.

Form XXXI.

(See rule 73.)

Notice informing a Civil Court that a case is pending before Debt Settlement Board/Appellate Officer's Court/Revisional Authority's Court relating to a debt in respect of which a decree has been passed against the debtor.

To

The Munsif at.....

Sir,

I have the honour to give notice that an application made/a statement of debt/a memorandum of appeal/an application for revision submitted to this Board/filed in this Court/forwarded/transferred to this Court on..... under section 8/sub-section (1) of section 13/under section 40/40A of the Bengal Agricultural Debtors Act includes a debt owed by..... son/wife of..... caste..... resident at.....

.....in respect of which a decree has
 been passed in *.....suit/proceedings, No.....
 of year.....in Court No.....at.....
 against the said.....in favour of †.....
 son/wife of.....resident at.....
 In the event of any application for execution of the decree being filed here-
 after your attention is invited to section 33 of the said Act.

I have the honour to be,

Sir,

Your most obedient servant,

Seal of the Board/Court.

Signature.....

Date.....

Chairman.....Debt Settlement Board.

Ordinary Appellate Officer.....

Special Appellate Officer.....

District Judge.....

Additional District Judge.....

*Insert here class of suit.

†Insert here name of creditor.

Form XXXIV.

(See rule 73).

Proceedings No.....Year.....

To

The.....

Sir,

I have the honour to say that the above proceedings in respect to which a notice was given to you under section 34 of the Bengal Agricultural Debtors Act, 1935, have been disposed of by the Board/Court. The application has been dismissed/An award has been made/The Board has decided that no debt exists in respect of the debt for which a suit is pending/a decree has been passed in your Court. A memorandum of appeal/an application for revision has been disposed of by the Court and the order of the Board has been upheld/reversed/modified as shown below.

I have the honour to be,

Sir,

Your most obedient servant

Seal.

Signature.....

Date

Chairman Debt Settlement Board.

Ordinary Appellate Officer.....

Special Appellate Officer.....

District Judge.....

Additional District Judge.....

No. 352C. S.—27th March 1941.—In exercise of the power conferred by section 43 of the Co-operative Societies Act, 1912, (II of 1912), the Governor is pleased to make the following amendment in the rules published under notification No. 9564 Agri., dated the 8th November 1920, as subsequently amended, namely:—

Amendment.

After sub-rule (4) of rule 18 of the said rules insert the following sub-rule, namely:

“(4A) Audit fees payable under this rule shall be deemed to be Government dues and if not paid within the time fixed under sub-rule (4) may be recovered in the same manner as arrears of land revenue.”

Published in the *Calcutta Gazette*, Part I, dated the 10th April 1941.

DEPARTMENT OF COMMERCE AND LABOUR.

No. 1130 Com.—5th April 1941.—In exercise of the powers conferred by sub-section (3) of section 4 of the **Bengal Shops and Establishments Act, 1940** (Bengal Act XVI of 1940), read with rule 3 of the Bengal Shops and Establishments Rules, 1941, the Governor is pleased to suspend the provisions of the proviso to sub-section (3) of section 6 of the said Act for the number of days stated against the holidays and occasions mentioned below:

Akshoy Tritiya—One day.

Bakrid—One day, and two days preceding and two days following it.

Basanta Panchami—One day.

Chait Sankranti—One day.

Dewali—One day, and three days preceding it.

Durga Puja—From Mahalaya to Bejoya Dasamiday, both days inclusive.

Fateha Dazdahum—One day.

Holi—One day.

First Baisakh—One day.

Id-ul-Fitr—From the 25th day of the Ramzan to the day following the Id-ul-Fitr, both days inclusive.

Jagadhatri Puja—One day.

Ramnabami—One day.

Rath Jatra—One day.

X'Mas and New Year's Day—From the 21st December to 2nd January, both days inclusive.

Published in the *Calcutta Gazette*, Part I, dated the 17th April 1941.

DEPARTMENT OF COMMERCE AND LABOUR.

No. 1140 Com.—7th April 1941.—In exercise of the power conferred by sub-section (1) of section 92 of the **Government of India Act, 1935**, the Governor is pleased to direct that the Insurance Deposits (Temporary Reduction) Act, 1941 (Act I of 1941), shall apply to the Darjeeling district and to the partially excluded areas of the Mymensingh district, with effect from the date of publication of this notification in the *Calcutta Gazette*.

Published in the *Calcutta Gazette*, Part I, dated the 24th April 1941.

CO-OPERATIVE CREDIT AND RURAL INDEBTEDNESS DEPARTMENT.

No. 984 R.—9th April 1941.—In exercise of the powers conferred by section 55 of the **Bengal Agricultural Debtors Act, 1935** (Bengal Act VII of 1935), the Governor is pleased to make the following amendments in the Bengal Agricultural Debtors Rules, 1936, published with notification No. 9187 L. dated the 26th June 1936, as subsequently amended, namely:

(1) At the top of form I of the said rules for the figures and word “14, 31 and 32” substitute the figures and word “14, 14A, 31 and 32.”

(2) At the top of form II of the said rules for the figures and word “15 and 33” substitute the figures and word “15, 15A and 33.”

Published in the "*Calcutta Gazette*", Part I, dated the 1st May 1941.

HOME DEPARTMENT.

No. 670A. R.—28th April 1941.—The following notification by the Secretary to the Governor of Bengal is hereby published for general information :—

"Notification No. 24S, dated the 24th April 1941.—In His Majesty's name, His Excellency the Governor-General has assented to the Bengal Co-operative Societies Bill, 1940.

M. O. CARTER,
Secretary to the Governor."

Published in the "*Calcutta Gazette*", Part I, dated the 8th May 1941.

CO-OPERATIVE CREDIT AND RURAL INDEBTEDNESS DEPARTMENT.

No. 2. T. R. I.—29th April 1941.—In exercise of the powers conferred by section 55 of the Bengal Agricultural Debtors Act, 1935 (Bengal Act VII of 1936), the Governor is pleased to make the following amendment in the Bengal Agricultural Debtors Rules, 1936, published with notification No. 9187 L. R., dated the 26th June 1936, as subsequently amended, namely :—

For rule 103 of the said rules substitute the following :—

"Registration of an award or certificate under section 47.

103. (1) When an award is signed under section 25 or when a certificate is granted under section 21 or sub-section (5) of section 22, the Chairman of the Board shall present it for registration to the Sub-Registrar within whose jurisdiction the office of the Board is situated—

(a) if there is no appeal, after the expiry of thirty days referred to in sub-section (2) of section 40 but within four months from the date of the award or certificate; or

(b) if there is an appeal, after the expiry of thirty days referred to in sub-section (2) of section 40A—

(i) from the date on which the appellate officer summarily rejects the appeal or either confirms or modifies the decision of the Board under sub-section (5) of section 40, but within four months from the date of the order of the appellate officer, or

(ii) from the date on which the appellate officer directs the Board to take such action as the appellate officer thinks fit under sub-section (5) of section 40 but within four months from the date on which the Board takes such action;

(c) if there is an application for revision, within four months after the date on which the District Judge or the Additional District Judge rejects the application or disposes of such application under sub-section (5) of section 40A.

(2) If there is an appeal under section 40 or an application for revision under section 40A, and if the appellate officer or the District or the Additional District Judge hearing the application for revision, does not set aside the award signed under section 25 or the certificate granted under section 21 or sub-section (5) of section 22, he shall, as soon as possible after disposing of the appeal or application for revision, return such award or certificate through the appellate officer concerned to the Chairman of the Board for registration, and if the appellate officer or the District or the Additional District Judge has modified the terms of such an

award or certificate, he shall correct it accordingly before returning it to the Chairman.

(3) The Chairman of the Board on receiving back an award or a certificate after registration from the Sub-Registrar's office shall despatch the same to the Subdivisional or Collectorate record room, as the case may be."

Published in the "*Calcutta Gazette*," Part I, dated the 8th May 1941.

Chittagong Hill-tracts.—No. 39S.—2nd May 1941.—In exercise of the power conferred by sub-section (1) of section 92 of the **Government of India Act, 1935**, the Governor is pleased to direct that the Indian Finance Act, 1941 (Act VII of 1941), shall be deemed to have applied to the Chittagong Hill-tracts with effect from the 1st April 1941 subject to the following exceptions, namely:—

(i) Sections 2, 4, 5 and 8 of the said Act shall not apply to the said tracts, and

(ii) Section 7 of the said Act shall not apply to the indigenous hillmen in the said tracts.

Chittagong Hill-tracts.—No. 40S.—2nd May 1941.—In exercise of the power conferred by sub-section (1) of section 92 of the **Government of India Act, 1935**, the Governor is pleased to direct that the Repealing and Amending Act, 1940 (XXXII of 1940), shall apply to the Chittagong Hill-tracts in so far as it affects the India Tea Control Act, 1933 (XXIV of 1933), with effect from the date of publication of this notification in the *Calcutta Gazette*.

Published in the "*Calcutta Gazette*" Part I, dated the 15th May 1941.

HOME DEPARTMENT.

No. 734A. R.—10th May 1941.—The following notification by the Secretary to the Governor of Bengal is hereby published for general information:—

"Notification No. 21T. S., dated the 6th May 1941.—In His Majesty's name, His Excellency the Governor has assented to the **Bengal Rural Poor and Unemployed Relief (Amendment) Bill, 1941**.

M. O. CARTER,

Secretary to the Governor."

No. 739A. R.—10th May 1941.—The following notification by the Secretary to the Governor of Bengal is hereby published for general information:—

"Notification No. 50T. S., dated the 7th May 1941.—In His Majesty's name, His Excellency the Governor has assented to the **Bengal Local Self-Government (Amendment) Bill, 1941**.

M. O. CARTER,

Secretary to the Governor.

JUDICIAL AND LEGISLATIVE DEPARTMENTS.

Darjeeling-Mymensingh.—No. 1699J.—12th May 1941.—In exercise of the power conferred by sub-section (1) of section 92 of the **Government of India Act, 1935**, the Governor is pleased to direct that the Code of Civil Procedure (Amendment) Act, 1940 (XXXIV of 1940), shall apply to the Darjeeling district and to the partially excluded areas of the Mymensingh district.

Darjeeling-Mymensingh.—No. 1700J.—12th May 1941.—In exercise of the power conferred by sub-section (1) of section 92 of the **Government of India Act, 1935**, the Governor is pleased to direct that the **Code of Criminal Procedure (Amendment) Act, 1940 (XXXV of 1940)**, shall apply to the Darjeeling district and to the partially excluded areas of the Mymensingh district with effect from the date of publication of this notification in the *Calcutta Gazette*.

No. 1701J.—12th May 1941.—In exercise of the power conferred by the proviso to section 29 of the **Code of Civil Procedure, 1908 (Act V of 1908)**, and in supersession of the notification No. 1638J., dated the 11th May 1940, published at page 1454, Part I of the *Calcutta Gazette*, dated the 16th May 1940, the Governor is pleased to declare that the provisions of the said section shall apply to the Civil Courts situate in Johore, a State in the Unfederated Malay States, as respects service in Bengal of summonses issued by such Courts.

2. This notification shall be deemed to have taken effect on the 16th May 1940.

No. 1702J.—12th May 1941.—In exercise of the power conferred by the proviso to section 29 of the **Code of Civil Procedure, 1908 (Act V of 1908)**, the Governor is pleased to declare that the provisions of the said section shall apply to the Civil Courts situate in Johore, a State in the Unfederated Malay States, as respects service in Bengal of processes other than summonses issued by such Courts.

CO-OPERATIVE CREDIT AND RURAL INDEBTEDNESS DEPARTMENT.

No. 13T. R. I.—5th May 1941.—In exercise of the powers conferred by section 55 of the **Bengal Agricultural Debtors Act, 1935 (Bengal Act VII of 1936)**, the Governor is pleased to make the following amendments in the **Bengal Agricultural Debtors Rules, 1936**, published with notification No. 9187L. R., dated the 26th June 1936, as subsequently amended, namely:—

In clause (a) of rule 63 of the said rules after the words "the amount was payable" insert the words and figure "or when the award was signed after the amount became payable, within 90 days of the signing of the award."

No. 19T. R. I.—11th May 1941.—In exercise of the power conferred by section 55 of the **Bengal Agricultural Debtors Act, 1935 (Bengal Act VII of 1936)**, the Governor is pleased to make the following amendment in the **Bengal Agricultural Debtors Rules, 1936**, published with notification No. 9187L. R., dated the 26th June 1936, as subsequently amended, namely:—

Amendment.

In sub-rule (1) of rule 50E of the said rules for the word "less" substitute the word "plus".

The Chittagong Hill-tracts Laws Regulation, 1941.

No. 70T. S. 9th May 1941.—The following Regulation made by the Governor under sub-section (2) of section 92 of the **Government of India Act, 1935**, has been assented to by the Governor-General and is hereby published for general information:—

Bengal Regulation No. 11 of 1941.

(Assent of the Governor-General was first published in the *Calcutta Gazette* of the 15th May 1941.)

A Regulation to apply the Indian Army Act, 1911, to the Chittagong Hill-tracts.

WHEREAS it is expedient to apply the Indian Army Act, 1911, to the Chittagong Hill-tracts;

It is hereby enacted as follows:—

1. *Short title.*—This Regulation may be called the Chittagong Hill-tracts Laws Regulation.

2. *Application of Act VIII of 1911 to the Chittagong Hill-tracts.*—The Indian Army Act, 1911, shall apply to the Chittagong Hill-tracts.

Published in the "*Calcutta Gazette*," Part I, dated the 22nd May 1941.

HOME DEPARTMENT.

No. 777A. B.—16th May 1941.—The following notification by the Secretary to the Governor of Bengal is hereby published for general information:—

"Notification No. 136T. S., dated the 14th May 1941.—In His Majesty's name, His Excellency the Governor has assented to the **Bengal Water-Hyacinth (Amendment) Bill, 1941.**

M. O. CARTER,

Secretary to the Governor."

DEPARTMENT OF COMMERCE AND LABOUR.

No. 1602Com.—14th May 1941.—In exercise of the power conferred by clause (f) of sub-section (1) of section 5 of the **Bengal Shops and Establishments Act, 1940** (Bengal Act XVI of 1940), the Governor is pleased to exempt shops dealing mainly in the following articles from the operation of the said Act, so far as the sale of these articles is concerned, namely:—

Vegetables.

Meat.

Fish.

Eggs.

Fruits (excepting tinned fruits).

Dairy produce (excepting "ghee" and butter, dried milk or condensed milk in sealed tins).

Bread.

Pastries.

Sweetmeats.

Flowers.

Biscuits (not in sealed tins.)

Rice, fried, baked or pressed.

Raw leather.

No. 1603Com.—14th May 1941.—In exercise of the power conferred by clause (q) of sub-section (1) of section 5 of the **Bengal Shops and Establishments Act, 1940** (Bengal Act XVI of 1940), the Governor is pleased to exempt seasonal commercial establishments engaged in the purchase of raw jute or cotton, or in cotton ginning or cotton or jute pressing from the operation of the said Act.

No. 1604Com.—14th May 1941.—In exercise of the power conferred by sub-section (2) of section 5 of the **Bengal Shops and Establishments Act, 1940** (Bengal Act XVI of 1940), the Governor is pleased to declare that shops dealing in articles notified under clause (f), or mentioned in clauses (g), (h), (i) and (j) of sub-section (1) of section 5 of the said Act,

shall not be exempt from the operation of the following provisions of the said Act and that the following provisions of the said Act shall apply to such shops, namely :—

(i) sub-section (1) of section 6 of the said Act in so far as it provides for the grant of holidays to the persons employed for at least one and a half days in each week ;

(ii) sub-section (2) of section 6 of the said Act ;

(iii) sub-section (2) of section 7 of the said Act in so far as it provides for the daily and weekly hours of work of persons employed and hours of overtime work ;

(iv) sub-section (3) of section 7 of the said Act ;

(v) sub-section (4) of section 7 of the said Act ;

(vi) sections 11 and 12 of the said Act ;

(vii) section 13 of the said Act ; and

(viii) sub-section (1) of section 14 of the said Act.

Published in the "*Calcutta Gazette*", Part I, dated the 29th May 1941.

DEPARTMENT OF COMMUNICATIONS AND WORKS
(COMMUNICATIONS AND BUILDINGS.)

No. 6C.—19th May 1941.—In exercise of the powers conferred by section 4 of the **Bengal Highways Act, 1925** (Bengal Act III of 1925), and in supersession of the rules published under notification No. 2C., dated the 21st July 1932, as subsequently amended, and the rules regulating traffic on Government roads in the district of Darjeeling published under notification No. 4273E. A., dated the 30th March 1933, as subsequently amended, the Governor is pleased to make the following rules with regard to all Government roads in the Province including those in the Darjeeling district and the partially excluded areas of the Mymensingh district but excluding those in the Chittagong Hill Tracts, namely :—

Rules.

Definitions.

1. In these rules, unless there is anything repugnant in the subject or context—

(1) "Cattle" means cattle as defined in the Cattle-trespass Act, 1871 ;

(2) "Road" means "Government road" as defined in the Bengal Highways Act, 1925 ;

(3) "Subdivisional Officer" means the Subdivisional Officer under the Communications and Buildings Branch of the Communications and Works Department.

Encroachment or obstruction on a road.

2. (1) No person shall encroach on any part of a road by cultivating crops thereon.

(2) Without the previous permission of the Executive Engineer no person shall—

(a) make, or cause any encroachment to be made, or

(b) obstruct traffic, or

(c) cause any inconvenience to the public, or

(d) obstruct the flow of water

on any road, by means of any building (whether on or overhanging the road), any wall, rail, post, fence, pit, embankment or ditch, or any other obstruction, or by means of any cut, drain or watercourse intended for the purpose of drainage or irrigation or by exposing thereon any goods

for sale, or by placing thereon any substance or material or by any other means.

(3) Without the previous permission of the Executive Engineer no person shall, on any road—

(a) hold a meeting, mela or jatra, or cause any of them to be held, or

(b) construct, or add to, a structure for the purpose of public worship, or

(c) deposit or dump materials of any kind.

(4) Without the previous permission in writing of the Superintending Engineer no person shall make any causeway, culvert, approach road, or overbridge over any borrowpits or drains of any road in order to make a passage from his land, premises or shop.

Sale, collecting or gathering of articles in the vicinity of roads.

3. No person shall, without the general or special permission of the Executive Engineer, expose any article for sale on any road.

Cutting of plants, trees or hedges obstructing road or drain.

4. Any person in possession of, or having control over, any plants, trees, or hedges which obstruct, overhang, or overshadow any road, or any public drain or sluice, shall, if so required by notice in writing signed by the Executive Engineer, cut down, prune or trim such plants, trees or hedges within such period and in such manner as is prescribed in the notice.

Damages to bridges, culverts or causeways on roads.

5. (1) No person shall destroy or damage, or cause to be destroyed or damaged, any bridge, culvert, or causeway built on or across any road.

(2) No person shall erect any fence or other obstruction close to the opening of any such bridge, culvert, or causeway or across the roadside drain for the purpose of fishing or for any other purpose so as to impede the free flow of water, or to cause damage thereto.

(3) No person shall cast nets for fishing purposes from any bridge or culvert.

Damages to fences, posts, soil, turf or grass on road.

6. Except with the permission in writing of the Executive Engineer no person shall—

(a) destroy or damage or remove, or cause to be destroyed or damaged or removed, any fence, post, notice board, danger light, boundary pillars and other land marks erected on any road, or

(b) dig, scrape, uproot or remove any plant, soil, turf, grass or any material collected from any part of a road, or

(c) throw dust or rubbish on, or collect sweepings or manure on, a road.

Channel across road.

7. (1) No person shall cut a channel or convey water by a channel across a road except with the permission in writing of the Executive Engineer or Subdivisional Officer in charge of the road.

Any person who has received such permission shall cut a channel or trench on a road in the manner specified in the order and shall deposit with the Executive Engineer such sum as he may fix, and if the work is not properly carried out the Executive Engineer may have it re-done or improved and the costs for such work shall be recovered from this deposit.

(2) Any person who has been permitted in writing by the Executive Engineer or Subdivisional Officer in charge of any road to cut a channel across the road shell, by the time prescribed by him, cover or refill the channel, so as to restore the road to its former condition.

(3) Any person who has a prescriptive right to keep a channel open for carrying water across a road shall keep the channel in proper order, so as to prevent danger or inconvenience to the public.

Obstruction to waterway adjoining a road.

8. No person shall obstruct any waterway adjoining a road, so as to prevent free flow of water from culverts or roadside drains or to damage or tend to damage the road, or otherwise to render the road impassable.

Excavation on or near road.

9. (a) No person shall make any excavation on or underneath any road or make any excavation near any road which is likely to endanger the said road, except with the permission in writing of the Executive Engineer or Subdivisional Officer in charge of the road, and when the permission is obtained the excavation shall be carried out in such manner as he may direct.

(b) No person shall blast or remove any stone, either buried or loose, in or adjacent to any road so as to endanger its safety.

Use of roads, bridges, culverts or channels while closed to traffic.

10. (1) No person shall pass over, or drive any animal or vehicle or class of vehicles over any road, portion of any road or any bridge, culvert, or channel on or across any road while it is under construction or repair, or is affected by flood or is otherwise rendered unfit for such traffic, and is closed to such traffic under orders of the Executive Engineer, or in emergent cases, pending the receipt of the orders of the Executive Engineer, under the orders of the officer in charge of the road and a barricade has been set up across the road and a notice hung up closing the road to such traffic under order of such authority.

(2) Over such bridges on or across any road as are of insufficient width or strength to carry more than one line of traffic, and on which a chaukidar has been appointed under the authority of the Provincial Government, no person shall proceed or shall drive or ride a pony, or any animal or vehicle except under the direction of such chaukidar, or where there is no chaukidar, in accordance with a rule indicated by a notice board on such bridge, signed by the Executive Engineer.

(3) Without the written permission of the Executive Engineer or of the Subdivisional Officer in charge of the road (or the District Magistrate if these officers are away from headquarters) no person shall drive a motor bus or motor lorry over any road or any portion of any road declared by the Executive Engineer to be unfit for such traffic.

Discharge of rain water from roof to road.

11. Without the permission of the Executive Engineer, no person shall allow the rain water from the roof of any building owned or occupied by him to be discharged upon any road except by means of down-pipes or other contrivance intended for carrying water from the roof of the building.

Flow of filth on to road.

12. No person shall cause the water of any privy, or any matter offensive or deleterious to health, to flow, or be placed, on a road.

No latrine shall be constructed on the side of a road without a proper screen, and no nightsoil shall be deposited on the side of a road.

Removal of trees or erections falling on to a road.

13. Any person owning or possessing a tree, a house, wall or other erection which has fallen, or part of which has fallen or threatens to fall on to a road, shall if so required by notice in writing, signed by the Executive Engineer or the Subdivisional Officer, remove such tree, house, wall, erection or part within the period specified in such notice failing which such tree, house, wall or other erection will be disposed of by sale or otherwise by the Executive Engineer.

Curing hides on or near road.

14. No person shall cure hides on any road.

Slaughter of animals, cleaning of carcasses, etc., on or near road.

15. No person shall slaughter any animal or clean any carcasses or collect bones on any road.

Placing or burning of bodies on road.

16. No person shall place or burn any corpse or the dead body of any animal on any road.

Steeping offensive matter in roadside drain, pit or excavation.

17. No person shall steep any jute, hemp, bamboes, hides or other offensive matter in any drain, borrowpit or excavation at the side of or near any road.

Rules of the road.

18. (1) Any person driving a vehicle along a road and meeting another vehicle shall keep to his left or near side of the road, so as to allow sufficient room for the other vehicle to pass.

(2) Any person driving a vehicle along road shall, when overtaking another vehicle, keep to his right.

(3) No person shall overtake and pass another vehicle in such a manner as to obstruct vehicles approaching from the opposite direction or at the bends in a road which prevent his seeing such approaching traffic.

Care of animals on road.

19. (1) No person in charge of, or having control over, any animal used for riding or draught shall allow such animal to stand and wander on any road without a rider or driver.

(2) No person in charge of, or having control over, any cattle shall allow such cattle to stay or lie on any road so as to cause inconvenience or danger to any person travelling on the road.

(3) No person shall tether any cattle on the top or flank of a road, or stall cattle or allow cattle to graze on a road.

(4) No person shall drive upon a road in the district of Darjeeling at the same time more than four pack animals with the exception of the following roads:—

(1) Pedong to Kalimpong via Algorab.

(2) Rangpo to Kalimpong via Tista Valley Road up to 7th mile from Rangpo Bridge.

Elephants and camels on road to have bell.

20. No person shall ride or drive any elephant or camel on a road unless such animal is provided with an efficient bell, and with a light after nightfall.

Taking elephants over road embankment, bridge or culverts.

21. No person driving or in charge of an elephant shall—

(a) cause material injury to a road or to an embankment by taking the elephant over the same, or

(b) take the elephant over a bridge or culvert on or across a road unless the same be constructed on arched masonry or be declared by the Executive Engineer safe for the passage of elephants.

Removal of elephants or camels from road to admit passage of horses.

22. Every driver of an elephant or camel shall, on being so required by the rider or driver of a horse, remove such elephant or camel with reasonable promptitude to a sufficient distance from the road to allow such horse to pass safely along the road.

Care of vehicles on road.

23. (1) No person shall drive or have in his charge on any road more than one animal-driven vehicle at a time.

(2) No person in charge of, or having control over, any animal-driven vehicle shall allow it to stand or proceed unattended on any road.

(3) No person in charge of a vehicle, whether it be occupied or unoccupied, shall allow it to proceed along a road when he is asleep.

(4) No person in charge of a vehicle, whether it be occupied or unoccupied, shall allow it to stand on a road in such a way as to cause obstruction or inconvenience to traffic.

(5) Whenever the load on any vehicle other than a motor vehicle as defined in clause (18) of section 2 of the Motor Vehicles Act, 1939, exceeds twelve feet in length and extends beyond the rear of the bed or body of the vehicle in the case of such vehicles plying in the Darjeeling district by more than eight feet and in the case of vehicles plying elsewhere in the Province by any length there shall be displayed at the end of such load in such a manner as to be clearly visible at all times from the rear of the vehicle a red flag or red sign not less than twelve inches in width and in addition the vehicle shall be accompanied by a person (other than the driver or puller thereof) who shall keep control over the length of the load projecting behind the vehicle to prevent inconvenience or obstruction to other traffic or damage to the road surface and who in the case of a vehicle other than a motor vehicle shall walk in order to control the load.

(6) All owners and drivers of vehicles loaded with bricks or other materials shall be responsible for their being so secured that the contents thereof may not fall on any road.

(7) If any vehicle breaks down on a road, the driver shall remove it to the edge of the road without delay, and shall, within a reasonable time, remove from the road all materials (if any) which have fallen from the vehicle and shall place the vehicle in such a position that it will not obstruct traffic on the road.

(8) No person shall lead or drive any vehicle up or down the side slopes of any road embankment except at crossings fixed by the Executive Engineer in charge.

(9) No person shall drive, conduct or lead on any road any vehicle the wheel or wheels of which are in such a condition as to cause undue damage to the road surface.

Driving of carts on road.

24. In the Darjeeling district excluding the Siliguri subdivision cartmen driving carts on any road shall not drive, cause or suffer to be driven together or park their carts so as to form them into a train.

of more than three carts at a time and at the same place, the cartmen following being responsible for the observance of this rule with respect to the cartmen ahead of them by keeping their carts at least 50 feet behind.

Carrying bamboos or bullahs on cart on road.

25. No person shall carry bamboos or bullahs or steel sections or other materials of a similar character on a vehicle on any road in such a manner as to scrape the road or to cause injury or annoyance or risk or injury to travellers thereon.

Width of tyres.

26. From such date as the Provincial Government may notify no person shall drive a cart on any road, unless the iron tyres of the wheels, or (in the case of carts not having iron tyres) the wooden rims of the wheels are two and a half inches or more in width.

Separate tracks for spring vehicles and vehicles fitted with rubber tyres.

27. The Executive Engineer may reserve for spring vehicles and vehicles fitted with rubber tyres any road or portion thereof and no vehicle of any other kind shall pass over any road or portion thereof so reserved except for the purpose of crossing such road or portion thereof.

Transport of heavy loads over bridge.

28. No person shall drive, ride or conduct across a bridge on any road any vehicle or animal at a speed or having a gross weight in excess of the speed or gross weight which may be indicated by a notice on or in the vicinity of the bridge concerned.

Lighting of vehicles on road.

29. All vehicles, other than cycles and two-wheeled carts travelling on any road between dusk and dawn, shall carry at least two conspicuous lights, one of which shall show a red light to the rear. Cycles of all descriptions shall have at least one light. Two-wheeled carts plying in districts other than the Darjeeling district shall have at least two conspicuous lights, one at the front end of the cart forward of the yoke and the other at the rear end of the cart. Vehicles carrying materials such as bamboos, steel sections, planks, etc., which project behind the vehicle shall have the rear lamp attached to the end of such projections.

Two-wheeled carts plying in the Darjeeling district shall have at least one conspicuous light visible from both front and rear; and vehicles plying in the said district and carrying materials such as bamboos, steel sections, planks, logs, etc., which project beyond the rear of the bed or body of such vehicles by more than eight feet shall have an additional lamp attached to the end of such projections.

Carrying of passengers on pedal bicycles.

30. No person, when riding a pedal bicycle on a road, shall carry a passenger on any part of the bicycle or of the rider himself.

Nuisances on roads

31. No person shall commit nuisance on any road.

Lighting of fires

32. (1) No person shall light a fire in any unenclosed place within ten yards of any wooden bridge on a public road.

(2) No person shall light a fire on or near any road in such a manner as may lead to setting fire to roadside jungle.

Penalties.

33. (1) A breach of any of the rules mentioned in column 1 of the

following table shall be punished with fine, which may extend to the sum mentioned opposite thereto in column 2 of that table:—

Rule.	Maximum fine. Rs.
3, 5(3), 6(b), 6(c), 18(1), 18(2), 18(3), 19(1), 19(2), 22-25, 27, 29-31	5
and	
2(1), 2(2), 2(3), 2(4), 4, 5(1), 5(2), 6(a), 7(1), 7(2), 7(3), 8, 9, 10(1), 10(2), 10(3), 11-17, 19(3), 20, 21, 26, 28 and 32.	10

(2) A continuance of the breach of any of the rules shall be punished with a further fine of one rupee for every day during which the breach is continued after the offender has been convicted of such breach.

REVENUE DEPARTMENT.

No. 229T. R.—20th May 1941.—In exercise of the power conferred by sub-section (1) of section 9 of the **Bengal Finance Act, 1939** (Bengal Act IX of 1939), the Governor is pleased to make the following amendment in the Bengal Professions, Trades, Callings and Employments Taxation Rules, 1939, published under notification No. 11104L. R., dated the 14th October 1939, at pages 2733-36 in Part I of the *Calcutta Gazette* of the 19th October 1939, namely:

Amendment.

After rule 11 of the said rules insert the following rule:—

"11A. No court-fee shall be chargeable on applications presented under section 5 of the Act and rule 9 of these rules."

CO-OPERATIVE CREDIT AND RURAL INDEBTEDNESS DEPARTMENT.

No. 25T. R. 1.—20th May 1941.—In exercise of the powers conferred by section 55 of the **Bengal Agricultural Debtors Act, 1935** (Bengal Act VII of 1936), the Governor is pleased to make the following amendments in the Bengal Agricultural Debtors Rules, 1936, published with notification No. 9187L. R., dated the 26th June 1936, as subsequently amended, namely:—

(1) To sub-rule (1) of rule 132 of the said rules the following proviso shall be added, namely:

"Provided that before transferring records to the record room the Chairman of the Board shall certify that either the fees referred to in rule 139 have been realised or that a certificate proceeding referred to in that rule has actually been started."

(2) In rule 139 of the said rules—

For sub-rules (2) and (3) the following sub-rules shall be substituted, namely:—

(2) If the debtor or any creditor does not pay by the date fixed by the Board the fees referred to in sub-rule (1), the Board may formally pass the order of determination under sub-section (2) of section 18 and thereafter proceed to dispose of the application, and shall take action under sub-rule (4) for the recovery of the said fees. But no award shall be signed until the Board has been satisfied and endorses on the order-sheet that the fees referred to in sub-rule (1) have been paid to the Board or that the list of defaulters referred to in sub-rule (3) has been issued to the Subdivisional Officer.

(3) By the 7th of each month the Board shall forward to the Sub-divisional Officer a list in duplicate of debtors and creditors who have failed to pay the fees referred to in sub-rule (1) in the preceding month by the date fixed in that behalf by the Board under that sub-rule.

(4) On receipt of the list referred to in sub-rule (3) the Sub-divisional Officer shall take necessary action to recover such fees as a public demand as provided in section 57 and return after due authentication the duplicate copy of the said list to the Board after the certificate for the recovery of such fees has been filed:

Provided that the Certificate Officer, if satisfied that there is good reason for allowing time for payment of the amount of the certificate filed for the recovery of any such fees, may allow time for such payment.

Provided further that where any such fees are due from the debtor and time is allowed to him under the first proviso for payment of such dues, the Certificate Officer, in allowing such time shall take into consideration the factor that it is not ordinarily possible for a debtor to pay his dues unless he gets a harvest.

(5) The amount of demand on account of the fees referred to in sub-rule (1) shall be realised in court-fee stamps. Such stamps shall be punched in presence of the Certificate Officer and filed in the records of the certificate proceeding and a necessary note shall forthwith be made in Register 10. The Certificate Officer shall next requisition the record of the Debt Settlement Board case from the record room, if already consigned there, or from the Debt Settlement Board and make an entry about the recovery in the order-sheet of the case and return the record to the record room or the Board as the case may be.

The Certificate Officer shall communicate to the Debt Settlement Board concerned, through the Sub-divisional Officer, about the recovery of the fees referred to in sub-rule (1). The Board on receipt of the information shall note such recovery in the remarks column of the case register as well as in the court-fee register and quote the number of the certificate case concerned. The realisation shall be entered in the quarterly returns of the quarter in which the fees are accounted for in the Board's office."

Published in the "*Calcutta Gazette*", Part I, dated the 12th June 1941.

HOME DEPARTMENT.

No. 952A. R.—10th June 1941.—The following notification by the Secretary to the Governor of Bengal is hereby published for general information:—

"Notification No. 66S, dated the 7th June 1941—In His Majesty's name, His Excellency the Governor General has assented to the **Bengal Motor Spirit Sales Taxation Bill, 1941.**

M. O. CARTER,

Secretary to the Governor.

JUDICIAL AND LEGISLATIVE DEPARTMENTS.

No. 2023J.—7th June 1941.—In exercise of the powers conferred by section 112A of the **Presidency-towns Insolvency Act, 1909** (III of 1909) as amended by the **Presidency-towns Insolvency (Bengal Amendment) Act, 1936** (Bengal Act XVIII of 1936), the Governor is pleased to make the following amendments in the rules for the proper performance of the administrative functions of the Official Assignee of Calcutta published with

this department notification No. 2255J., dated the 18th March 1937, namely:—

Amendments.

(1) In the proviso to rule 13 of the said rules *after* the figures and words "5 per cent." *insert* the words, figure and letter "exclusive of the fee charged for appraisement of an insolvent's exempted articles referred to in rule 13A."

(2) *after* rule 13 of the said rules *insert* the following as rule 13A:—

"13A. The Official Assignee shall charge a fee of 5 per cent. on the value appraised by him of such articles out of the property of an insolvent as comprise the tools (if any) of his trade and the necessary wearing apparel, bedding, cooking vessels and furniture of himself, his wife and children and other necessaries as aforesaid, not exceeding Rs. 300 in value and claimed by him to be treated as exempted articles under clause (b) of sub-section (1) of section 52 of the Presidency-towns Insolvency Act, 1909. Such fee shall be debited against the estate concerned provided there are funds sufficient to meet the charge and shall immediately on realisation be credited to Provincial revenues under the head 'XXI—Administration of Justice—Receipts of the Official Assignee'."

DEPARTMENT OF COMMERCE AND LABOUR.

No. 1919Com.—6th June 1941.—In exercise of the power conferred by sub-section (1) of section 92 of the Government of India Act, 1935, the Governor is pleased to direct that the Protective Duties Continuation Act, 1941 (VIII of 1941), shall, with effect from the date of publication of this notification in the *Calcutta Gazette*, apply to the Darjeeling district and to the partially excluded areas of the Mymensingh district.

Published in the "*Calcutta Gazette*", Part I, dated the 19th June 1941.

DEPARTMENT OF PUBLIC HEALTH AND LOCAL SELF-GOVERNMENT.

No. 815L. S.-G.—16th June 1941.—In exercise of the powers conferred by clause (aaa) of section 138 of the Bengal Local Self-Government Act of 1885 (Bengal Act III of 1885), the Governor is pleased to make the following rules:—

Rules regulating the Procedure to be followed by a Judge in inquiring into election petitions.

1. In these rules—

- (i) "the Act" means the Bengal Local Self-Government Act of 1885;
- (ii) "Election petition" means a petition filed under section 18B of the Act;
- (iii) "Judge" means the District Judge or any judicial officer to whom an election petition is transferred by the District Judge under sub-section (1) of section 18C of the Act.

2. (1) An election petition shall—

(a) contain the grounds on which the petitioner calls in question the election to which the petition relates together with a statement in concise form of the material facts on which the petitioner relies and the particulars of any corrupt practice which he alleges;

(b) state the petitioner's number on the electoral roll and the name of the constituency in which the election in question was held; and

(c) be signed by the petitioner and verified in the manner prescribed in the Code of Civil Procedure, 1908, for the verification of pleadings.

(2) If the petition is not filed within the time mentioned in sub-section (1) of section 18B of the Act or within the time mentioned in sub-section (2) of section 9 of the Bengal Local Self-Government (Amendment) Act, 1941, as the case may be, or if all the candidates nominated at the election to which the dispute relates are not made parties under sub-section (2) of section 18B of the Act or if the provisions of sub-section (3) of that section regarding deposit of security are not complied with, the Judge shall dismiss the petition.

(3) If the provisions of any of the clauses of sub-rule (1) are not complied with, the Judge shall return the petition for such amendment as may be necessary, and if the amendment is not made within such time as may be allowed—which shall not exceed a fortnight—the Judge may dismiss the petition.

3. If the petition is not dismissed under sub-rule (2) or sub-rule (3) of rule 2, the Judge shall, as soon as may be, cause a copy of the petition to be served on each respondent and also on the Chairman of the District Board or Local Board concerned.

4. (1) Subject to the provisions of the Act and to the other provisions of these rules, every election petition shall be inquired into by the Judge, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908, to the trial of suits.

Provided that it shall only be necessary for the Judge to make a memorandum of the substance of the evidence of any witness examined by him.

(2) Notwithstanding the provisions of sub-rules (2) and (3) of rule 2 the Judge may inquire into the compliance of the petition with the provisions of section 18B of the Act or sub-rule (1) of rule 2.

5. (1) An election petition may be withdrawn only by leave of the Judge.

(2) If there are more petitioners than one, no application to withdraw a petition shall be made, except with the consent of all the petitioners.

(3) When an application for withdrawal is made, notice thereof fixing a date for the hearing of the application shall be given to all other parties to the petition.

(4) No application for withdrawal shall be granted if, in the opinion of the Judge, such application has been induced by any bargain or consideration which ought not to be allowed.

(5) If the application is granted—

(a) the petitioner shall be ordered to pay the costs of the respondents theretofore incurred or such portion thereof as the Judge may think fit, and

(b) such withdrawal shall be communicated to the Chairman of the District Board or Local Board concerned.

6. An election petition shall abate on the death of a sole petitioner or of the survivor of several petitioners and such abatement shall be communicated to the Chairman of the District Board or Local Board, as the case may be.

7. After the conclusion of the inquiry the Judge shall, as soon as may be, forward a copy of his decision or order under section 18D, or section 18E, or section 18F, as the case may be, duly certified, to the Chairman of the District Board or Local Board concerned.

No. 2006Com.—14th June 1941.—In exercise of the power conferred by sub-section (1) of section 92 of the **Government of India Act, 1935**, the Governor is pleased to direct that the **Indian Tariff (Amendment) Act, 1941 (IX of 1941)**, shall, with effect from the date of publication of this notification in the *Calcutta Gazette*, apply to the Darjeeling district and to the partially excluded areas of the Mymensingh district.

CO-OPERATIVE CREDIT AND RURAL INDEBTEDNESS DEPARTMENT.

No. 40T. R. I.—12th June 1941.—In exercise of the powers conferred by section 55 of the **Bengal Agricultural Debtors Act, 1935** (Bengal Act VII of 1936), the Governor is pleased to make the following amendments in the **Bengal Agricultural Debtors Rules, 1936**, published with notification No. 9187L. R., dated the 26th June 1936, as subsequently amended, namely:—

(1) In rule 119 of the said Rules after the words and figures "in rule 19 (2)" insert the following:—

"and shall, if possible, inform the applicant of the amount of fee so determined on the day on which the application is filed and if not possible on the same day, this shall be done on the following day".

(2) After rule 119 of the said rules insert the following:—

"119A. Ordinary copies of a record or part of a record shall be furnished not later than the fifth day after the fees specified in rule 136 have been paid.

119B. When an urgent copy of a record or part of a record is required the fees specified for urgent copies in rule 136 shall be paid.

119C. Urgent copies of a record or part of a record shall be furnished on the day the fees specified in rule 136 are paid. If this is not possible, they shall be furnished on the following day.

(3) In the schedule to rule 136 of the said rules—

(a) to item 11 under the head "amount" after the words "two annas" add the following:—

"for ordinary copies and four annas for urgent copies"; and

(b) to item 12 under the head "amount" after the words "three annas" insert the following:—

"for an ordinary copy and six annas for an urgent copy."

Published in the "*Calcutta Gazette*", Part I, dated the 26th June 1941.

JUDICIAL AND LEGISLATIVE DEPARTMENTS.

No. 2113J.—17th June 1941.—In exercise of the powers conferred by section 44 of the **Bengal Money-lenders Act, 1940** (Bengal Act X of 1940), the Governor is pleased to make the following amendments in the **Bengal Money-lenders Rules, 1940**, published with notification No. 4054J., dated the 10th December 1940, namely:—

Amendments.

(1) For rule 9 of the said rules substitute the following:—

"9. Every application for a licence shall be accompanied by an affidavit stating whether any Court has, at any time, made any order in relation to the applicant or any person responsible or proposed to be responsible for the management of the applicant's money-lending business, in regard to any of the matters mentioned in section 14."

(2). For sub-rule (7) of rule 14 of the said rules, substitute the following:—

"(7) A record shall be kept of the hearing of every appeal by a Registrar in the form of an ordinary Revenue miscellaneous case while the record of the hearing of an application for revision by a Competent Court shall be kept in the manner provided in the High Court Civil Rules and Orders for the keeping of records in the case of miscellaneous appeals and miscellaneous cases in the Civil Courts".

(3) In rule 31 of the said rules, after the words "Sub-Registrar", omit the words "and Registrar."

(4) After rule 31 of the said rules add the following:—

"32. A Register of Fees and a Register of Miscellaneous Applications shall be maintained by every Sub-Registrar and Registrar in Forms "XXII and XXIII."

(5) After Form XXI appended to the said rules add the following Forms, namely:—

Bengal Form No. 317C.

Form XXII.

[Rule 32.]

Register of Fees.

Serial No.	Date.	No. and year of proceeding.	Fees on application under section 11 and appeals and other miscellaneous applications.	Licence fee under section 10.	Process fees.	Other fees, if any.	Remarks.
1	2	3	4	5	6	7	8

Bengal Form No. 317D.

Form XXIII.

[Rule 32.]

Register of Miscellaneous Applications.

Serial No.	Date.	By whom filed.	Number of case, if any, to which application relates.	Subject matter of the application.	Abstract of order with date.	Remarks.
1	2	3	4	5	6	7

DEPARTMENT OF COMMERCE AND LABOUR.

No. 2085Com.—23rd June 1941.—In exercise of the power conferred by sub-section (1) of section 92 of the Government of India Act, 1935, the Governor is pleased to direct that the Indian Companies (Amendment) Act, 1940 (XXXVI of 1940), shall apply to the

Darjeeling district and to the partially excluded areas of the Mymensingh district subject to the modification that for sub-section (2) of section 1 of the said Act the following shall be substituted, namely:—

"(2) It shall come into force in the Darjeeling district and in the partially excluded areas of the Mymensingh district in Bengal on the 26th day of September 1941."

CO-OPERATIVE CREDIT AND RURAL INDEBTEDNESS DEPARTMENT.

No. 47 T.R.I.—16th June 1941.—In exercise of the power conferred by section 55 of the **Bengal Agricultural Debtors Act, 1935** (Bengal Act VII of 1936), the Governor is pleased to make the following amendment in the Bengal Agricultural Debtors Rules, 1936, published with notification No. 9187 L. R., dated the 26th June 1936, as subsequently amended, namely:—

For sub-rule (1) of rule 122 of the said rules insert the following:—

"(1) Whenever a Circle Officer or a Special Officer, Debt Conciliation, inspects the work of a Board, he shall also check the cash book and other account registers and verify the cash in hand."

Chittagong Hill-tracts.—No. 85S.—21st June 1941.—In exercise of the power conferred by sub-section (1) of section 92 of the **Government of India Act, 1935**, the Governor is pleased to direct that the Code of Criminal Procedure (Amendment) Act, 1940 (Act XXXV of 1940), shall apply to the Chittagong Hill-tracts in so far as it is not inconsistent with the Chittagong Hill-tracts Regulation, 1900 (I of 1900), or with any rules for the time being in force thereunder with effect from the date of publication of this notification in the *Calcutta Gazette*.

Published in the "*Calcutta Gazette*", Part I, Extraordinary, dated the 1st July, 1941.

HOME DEPARTMENT.

No. 1044 A.R.—30th June 1941.—The following notification by the Secretary to the Governor of Bengal is hereby published for general information:—

"Notification No. 88S., dated the 28th June 1941.—In His Majesty's name, His Excellency the Governor-General has assented to the **Bengal Finance (Sales Tax) Bill, 1941**.

M. O. CARTER,

Secretary to the Governor."

FINANCE DEPARTMENT.

No. 1648F—30th June 1941.—In exercise of power conferred by sub-section (3) of section 1 of the **Bengal Finance (Sales Tax) Act, 1941** (Bengal Act VI of 1941), the Governor is pleased to direct that the said Act shall come into force on the 1st July 1941.

Published in the "*Calcutta Gazette*", Part I, dated the 10th July, 1941.

FINANCE DEPARTMENT.

No. 7079F.B.—5th July 1941.—In exercise of the power conferred by sub-section (1) of section 92 of the **Government of India Act, 1935**, the Governor is pleased to direct that the Indian Finance Act, 1941 (VII of 1941), shall be deemed to have applied to the Darjeeling district and to the partially excluded areas of the Mymensingh district with effect from the 1st April 1941.

Published in the "*Calcutta Gazette*", Part I, dated the 17th July 1941.

HOME DEPARTMENT.

No. 4218P.—11th July 1941.—In exercise of the power conferred by sub-section (1) of section 92 of the **Government of India Act, 1935**, the Governor is pleased to direct that the National Service (European British Subjects) Amendment Ordinance, 1941 (Ordinance No. VI of 1941), shall apply to the Darjeeling district and to the partially excluded areas of the Mymensingh district with effect from the 30th June 1941.

CO-OPERATIVE CREDIT AND RURAL INDEBTEDNESS

DEPARTMENT.

No. 1791 R.I.—11th July 1941.—In exercise of the powers conferred by section 55 of the Bengal Agricultural Debtors Act, 1935 (Bengal Act VII of 1936), the Governor is pleased to make the following amendments in the Bengal Agricultural Debtors Rules, 1936, published with notification No. 9187 L.R., dated the 26th June 1936, as subsequently amended, namely:—

(1) Rule 113 of the said Rules shall be omitted.

(2) Form XX appended to the said Rules shall be omitted.

(3) The following rule shall be substituted for the existing rule 114 of the said Rules:—

Receipts and payments on account of dist money, travelling allowance and compensation of witnesses shall be classified as peremptory and shall be entered in columns 5 and 15 respectively of the Cash Book in Form XXI on the day on which the money is received or paid, as the case may be. All other receipts and payments shall be recorded in the appropriate columns of the same Cash Book. The Cash Book shall be closed and balanced each day, the entries shall be examined with the vouchers and receipts and the closing balance shall be verified daily with the cash in hand by the Chairman or the Presiding Officer and a certificate of such verification shall be recorded daily in cash book under his signature.

(4) The following shall be substituted for second paragraph of rule 117 of the said Rules:—

When a peremptory payment is made the signature of the payee shall be taken in column 22 of the Cash Book in Form XXI in token of receipts.

Published in the "*Calcutta Gazette*", Part I, dated the 24th July 1941.

HOME DEPARTMENT.

No. 1165A.R.—21st July 1941.—In exercise of the power conferred by sub-section (1) of section 92 of the **Government of India Act, 1935**, the Governor is pleased to direct that the Indian Salt (Amendment) Act, 1939 XXV of 1939, shall apply to the Darjeeling district and to the partially excluded areas of the Mymensingh district.

REVENUE DEPARTMENT.

No. 6579 L.R.—15th July 1941.—In exercise of the powers conferred by sub-sections (1) and (6) of section 6A, clause third of section 17 and the first paragraph of section 17A of the **Bengal Patni Taluks Regulation, 1819** (Bengal Regulation VIII of 1819), the Governor is pleased to make the following rules, namely:—

Rules.

1. Application for opening separate accounts in respect of a share or portion of a paital taluk shall contain the particulars specified in Form A annexed to these rules.

2. Notice of the application referred to in rule 1 shall be in Form B annexed to these rules and shall be served on the landlord and the co-sharer patnidar in the manner provided in rule 3.

3. The notice with a copy of the application shall be served in the manner provided for the service of a revenue process upon the Zamindar or each of the Zamindars or their common agent if there be any. It shall also be published by hanging it up in some conspicuous part of the Zamindar's Malcutchery. Notice shall also be served in the manner provided for the service of a revenue process, on each co-sharer patnidar or patnidars and in the event of a failure of securing personal service, notice shall be served by affixing the same in some conspicuous part of the house in which the co-sharer is known to have last resided.

4. Cost of service of notices shall be borne by the applicant. For the service of every notice, a process fee of twelve annas shall be levied if the notice be directed to one or more persons residing in the same village. Where such notices are directed to persons in different villages a separate fee of twelve annas shall be levied for service in each village.

5. The applicant shall file as many copies of the application duly filled up as are required to be served.

6. Where the person on whom a notice is to be served is a minor, the notice shall be served on his or her legal guardian or natural guardian if no legal guardian exists.

7. Every such application shall be verified by the applicant or his duly authorised agent under a declaration that the particulars contained therein are true to the best of his knowledge and belief. When this has not been done the application shall be returned for revision and no action on it shall be taken until it is supported by such declaration.

8. The notice under sub-section (6) of section 6A of the Bengal Paital Taluks Regulation, 1819, shall be sent by registered post with acknowledgment due at the cost of the Zamindar.

9. The amount of charges incurred by the Zamindar in bringing a taluk to sale shall not exceed the amount actually incurred for his application under section 8 of the Bengal Paital Taluks Regulation, 1819, including the cost of service of notices referred to in clauses second, third, fourth and fifth of that section and of the notice referred to in sub-section (6) of section 6A of that Regulation and the legal practitioners' fees not exceeding the scale laid down in rule 157 of the Bengal Practice and Procedure Manual, 1940.

10. The Zamindar shall file a statement of cost, which shall be scrutinised and passed by the Collector and his decision in this respect shall be final.

11. The person succeeding or the transferee shall give notice of the succession or transfer in Form C annexed to these rules.

12. The applicant shall pay a process fee of annas twelve for each notice.

13. The notice shall be served in the manner provided for the service of the revenue process on the Zamindar or his common agent, if any.

[For Forms see pages 1826—1829 of Part I of the "*Calcutta Gazette*," 1941. Editor.]

No. 5714St.—18th July 1941.—In exercise of the power conferred by section 75 of the **Indian Stamp Act, 1899** (II of 1899), read with the Government of India Finance Department (Central Revenues) notification No. 9-Stamps, dated the 13th November 1937, the Governor is pleased to make the following rules relating to the cancellation of "Share Transfer" stamps:—

• *Mode of cancelling "Share Transfer" stamps at the time of registration of the deed of transfer.*—"Share Transfer" stamps affixed to deeds of transfer of shares, shall, before effect is given to the transfer by the joint stock company concerned, be cancelled by the company by means of a punch which can perforate either the word "cancelled" or an abbreviation thereof, namely, "cancel" or "cancelled" or the initials of the company, in sufficient prominence to render the stamps permanently unfit for reutilisation even though the stamps were previously cancelled in accordance with section 12 of the Indian Stamp Act, 1899. In case a company fails so to cancel the share transfer stamps as provided by this rule the company shall be liable to the penalty prescribed by section 63 of the Indian Stamp Act, 1899:—

• Provided that for the purpose of cancelling "Share Transfer" stamps, the Provincial Government may, on being satisfied by a certificate from the Collector or the Superintendent of Stamps, permit any joint stock company to adopt any other method in lieu of perforation by means of a punch.

DEPARTMENT OF AGRICULTURE AND INDUSTRIES.

Darjeeling-Mymensingh—No. 2123 Agri.—16th July 1941.—In exercise of the power conferred by sub-section (1) of section 92 of the **Government of India Act, 1935**, the Governor is pleased to direct that the Bengal Jute Regulation (Amendment) Act, 1940 (Bengal Act XIV of 1940), shall apply to the Siliguri subdivision of the Darjeeling district and to the partially excluded areas of the Mymensingh district, with effect from the date of publication of this notification in the *Calcutta Gazette*.

Published in the "*Calcutta Gazette*", Part I, dated the 7th August, 1941.

FINANCE DEPARTMENT.

No. 1911F.—4th August 1941.—In exercise of the power conferred by sub-section (3) of section 1 of the Bengal Motor Spirit Sales Taxation Act, 1941 (Bengal Act-V of 1941), the Governor is pleased to appoint the 7th August 1941 as the date on which the said Act shall come into force.

Chittagong Hill-tracts.—No. 998.—30th July 1941.—In exercise of the power conferred by section 18 of the **Chittagong Hill-tracts Regulation, 1900** (I of 1900), the Governor is pleased to make the following amendments in the rules for the administration of the Chittagong Hill-tracts,

published under notification No. 123P.D., dated the 1st May, 1900, as subsequently amended, namely:—

Amendments.

In rule 42 of the said rules—

(i) in sub-rule (5) for the words and figures "1st October" and "1st November" the words and figures "1st June" and "1st August" respectively, shall be substituted;—

(ii) in sub-rule (6) for the words and figures "Jhum tax of each year shall become an arrear on 1st January of the subsequent year and interest at 6½ per cent. per annum shall be chargeable on such arrears" the following shall be substituted:—

"Jhum tax is payable to the headman within the calendar year and shall become an arrear on 1st January of the subsequent year and interest at 6½ per cent. per annum shall be chargeable on such arrears"; and

(iii) for sub-rule (7) the following shall be substituted:—

"(7) Out of the arrear jhum tax realised by the Deputy Commissioner from each jhumia costs of collection and half the headman's share shall be first credited to the Provincial revenues and the balance paid to the Chief."

Published in the "*Calcutta Gazette*", Part I, dated the 21st August 1941.

HOME DEPARTMENT.

No 6094P.—13th August 1941.—In exercise of the power conferred by sub-section (1) of section 92 of the Government of India Act, 1935, the Governor is pleased to direct that the **State Prisoners (Detention of Lunatics) Ordinance, 1941** (Ordinance No. V of 1941), shall apply to the Darjeeling district and the partially excluded areas of the Mymensingh district.

FINANCE DEPARTMENT.

No. 2039F.—18th August 1941.—In exercise of the power conferred by sub-section (1) of section 26 of the **Bengal Finance (Sales Tax) Act, 1941** (Bengal Act VI of 1941), the Governor is pleased to make the following rules, namely:—

The Bengal Sales Tax Rules.

1. *Short title.*—(1) These rules may be called the Bengal Sales Tax Rules, 1941.

(2) *Definitions.*—In these rules, unless there is anything repugnant in the subject or context,—

(a) "Appropriate Commercial Tax Officer" in respect of any particular dealer means the Commercial Tax Officer within whose jurisdiction the dealer's place of business is situated, or if the dealer has more than one place of business in Bengal the Commercial Tax Officer within whose jurisdiction the chief branch or head office in Bengal of such business is situated.

"Appropriate Government Treasury" means—

(i) in respect of a dealer registered in Calcutta, the Calcutta Branch of the Reserve Bank of India;

(ii) for a dealer registered outside Calcutta having only one place of business, the Treasury or Sub-Treasury, as the case may be, of the subdivision where the dealer's place of business is situated; and

(iii) for a dealer registered outside Calcutta and having more than one place of business, the Treasury or Sub-Treasury, as the case may be, of the subdivision where the dealer's head office is situated.

(b) "Assessing authority" means in respect of any particular dealer the person appointed under section 3 to whom the Commissioner has delegated his powers under section 11 in respect of such dealer.

(c) "Assistant Commissioner" means the person appointed by that designation by the Provincial Government under section 3 to assist the Commissioner.

(d) "Calcutta" has the same meaning as in clause (11) of section 3 of the Calcutta Municipal Act, 1923 (Bengal Act III of 1923).

(e) "Collector" means in respect of any particular area the officer exercising in such area the functions of a Collector under Act I of 1890.

(f) "Commercial Tax Officer" means the person appointed by that designation by the Provincial Government under section 3 to assist the Commissioner.

(g) "Inspecting-officer" means any person appointed under section 3 and to whom the Commissioner has delegated his powers under sub-sections (1), (2), (3) or (4) of section 14.

(h) "Place of business" means any place where a dealer sells any goods or keeps accounts of sales.

(i) "Return-period" means in relation to any particular dealer the period for which returns in Form III are to be furnished by such dealer under rules 17 to 29.

(j) "Section" means a section of the Act.

(k) "The Act" means the Bengal Finance (Sales Tax) Act, 1941.

(l) "Warehouse" means any enclosure, building or vessel in which a dealer keeps a stock of goods for sale.

Fixation of sale-price for contracts.

(1) In computing the taxable turnover on any contract the dealer may deduct from his gross receipts on such contract that portion of the total cost of executing such contract which does not represent the cost of materials used.

(2) Unless the dealer produces any detailed evidence to the contrary in respect of any particular contract, the proportion of the gross receipts on any contract which shall be deemed to represent the cost of materials used shall be—

(a) in the case of an electrical contract—80 per cent.

(b) in the case of a structural contract—70 per cent.

(c) in the case of a sanitary or gas contract—66 $\frac{2}{3}$ per cent.

(d) in the case of overhaul or repair of any motor vehicle—40 per cent.

3. In calculating his taxable turnover a dealer may deduct from his gross turnover his turnover on the following, namely:—

Sales to the Deputy Controller of Stationery, Central Stationery Office.

Certificates of Registration.

4. Application for registration under section 7 or section 8 shall be made to the appropriate Commercial Tax Officer; it shall be made in Form IA by a dealer having only one place of business in Bengal and in Form IB by a dealer having more than one place of business in Bengal; it shall be signed by the proprietor of the business, or on his behalf by a partner or director of the firm or by the principal officer managing the business.

5. In the application form referred to in rule 4, a dealer shall specify in broad but sufficiently clear terms—

(i) the nature of his Business (e. g., whether agriculture, horticulture, mining, manufacturing, wholesale distribution, retail distribution, contracting or catering, or any combination of these);

(ii) what class or classes of goods he ordinarily purchases—

(a) for resale,

(b) for purposes of manufacture for sale; and

(iii) what class or classes of goods he manufactures for sale; and he shall also state—

(iv) whether he imports any goods direct from outside the province;

(v) if his business or any branch of it is situated in Calcutta, in which ward or wards his business or chief place of business or any branch of his business is situated;

(vi) the gross turnover of the business for the preceding year; and

(vii) the language in which he keeps his accounts.

6. (1) When the Commercial Tax Officer, after making any inquiry that he may think necessary, is satisfied that the applicant has correctly given all the requisite information and that the application is in order, he shall register the dealer and shall issue a certificate of registration in Form IIA or IIB. Form IIA shall be issued to dealers having only one place of business in Bengal and Form IIB shall be issued to dealers having more than one place of business in Bengal.

(2) Not less than one month before the registration—

(i) of any dealer under sub-section (5) of section 7, or

(ii) of any dealer who becomes liable to pay tax under sub-section (2) of section 4, or

(iii) after the publication of the first list of dealers under section 9, of any dealer who applies for registration under section 8, the Commissioner shall, by a notification in the *Calcutta Gazette*, publish the name and address of such dealer, the date from which the registration will take effect, and a list of the goods which will be specified in his certificate of registration for the purpose of sub-clause (ii) of clause (a) of sub-section (2) of section 5.

7. (1) The registration certificate shall specify the following amongst other particulars:—

(a) the location of the business and of any branch of the business;

(b) the nature of the business;

(c) the class or classes of goods which may be sold to the dealer free of tax as being required either—

(i) for resale, or

(ii) for purposes of manufacture for sale;

(d) the periods for which and the dates by which returns in Form III are to be furnished; and

(e) the intervals at which the tax shall be payable.

(2) As far as may be consistent with the Act and the Rules thereunder the particulars referred to in clauses (b) and (c) of sub-rule (1) shall be described in the registration certificate in the same terms as are used by the dealer in his application form.

8. Any dealer may obtain from the appropriate Commercial Tax Officer, on payment of a fee of two rupees, a duplicate copy of any registration certificate which has been issued to him and which may have been lost, destroyed or defaced.

9. (1) The Commercial Tax Officer shall furnish the dealer with a copy of the registration certificate for every additional place of business enumerated therein.

(2) The certificate shall be kept at the place of business or the additional place of business to which it relates.

10. The name of every dealer registered under rule 6 shall be entered in Ledgers "A" and "B".

11. (1) When any registered dealer makes any report in accordance with section 16 he shall send his registration certificate to the Commercial Tax Officer together with the report, for amendment or replacement, as the case may be.

(2) If a dealer to whom a certificate in Form IIA has been issued, reports that a new branch of the business has been opened, his certificate shall be cancelled and a fresh one in Form IIB shall be issued to him.

12. (1) When a Commercial Tax Officer is satisfied that the gross turnover of any dealer registered under section 7 has for three successive years failed to exceed the taxable quantum he shall cancel the registration of the dealer with effect from such date as may be notified under rule 13.

(2) Each year by the last day of May and November every Commercial Tax Officer shall forward to the Commissioner the name of any dealer whose registration is to be notified as having been cancelled under sub-rule (1).

13. Each year in the first *Calcutta Gazette* issued in July and January the Commissioner shall publish the name of every dealer whose name is forwarded to him under rule 12 and shall declare that the registration of every such dealer shall be deemed to have been cancelled with effect from the last day of August or February next following, as the case may be.

14. (1) When any dealer who is registered under section 8 desires to apply for cancellation of his registration he shall send his application to the appropriate Commercial Tax Officer not less than six months before the end of the year, together with—

(i) a statement of his gross turnover during the immediately preceding two years; and

(ii) a declaration whether or not—

(a) he manufactures or produces any goods for sale, or

(b) he imports for sale any goods from outside the province.

(2) If the Commercial Tax Officer is satisfied that the dealer is not liable to pay tax under section 4 he shall cancel the registration with effect from the last day of the year, and at least three months before the end of the year he shall forward the name of the dealer to the Commissioner for publication under rule 15.

15. At least two months before the end of the year the Commissioner shall, by notification in the *Calcutta Gazette*, publish the name of the dealer and shall declare that with effect from such date as may be specified in the notification (being the last day of the year of the dealer) the registration of the dealer shall be deemed to have been cancelled.

16. As soon as may be after the issue of a notification under rule 13 or rule 15 the dealer shall return his registration certificate to the Commercial Tax Officer for cancellation and destruction.

Return of Taxable Turnover.

17. During the first three years after the commencement of the Act every dealer whose taxable turnover, in the opinion of the Commissioner, is not likely to exceed 10 per cent. of his gross turnover shall furnish a return in Form III annually within sixty days from the expiry of each year.

18. After the expiry of three years from the commencement of the Act every dealer whose taxable turnover does not exceed 10 per cent. of his gross turnover calculated over the latest three years for which figures are available shall furnish returns in Form III annually within sixty days from the expiry of each year.

19. When the taxable turnover of any dealer referred to in rule 18 exceeds in any year 10 per cent. of the average gross turnover calculated in the manner provided in rule 18, the Assistant Commissioner may fix fresh return-periods for such dealer, but ordinarily he shall not reduce the return-period unless he is satisfied that the excess over 10 per cent. is likely to continue.

20. Every dealer other than those for whom annual returns are prescribed in rules 17 and 18 who satisfies the Commissioner that he is not accustomed to make up a statement of accounts of sales more often than half-yearly shall furnish a return in Form III half-yearly within sixty days from the expiry of each half-year.

20. Every dealer, other than those referred to in rules 17, 18 and 20, whose annual gross turnover in the opinion of the Assistant Commissioner is likely to exceed two lakhs of rupees shall furnish a return in form III quarterly, within thirty days from the expiry of each quarter:

Provided that the Commissioner may, for reasons to be recorded in writing, fix quarterly returns for any other class of dealer also.

22. Subject to the provisions of rule 24 the return-periods fixed for any dealer under rules 20 and 21 shall remain in force for not less than three years and thereafter shall continue to remain in force until the Assistant Commissioner fixes a different return-period in accordance with these rules.

23. The Commissioner or any other officer authorised to take action under rules 17, 19, 21, 30 or 32 shall, in exercising his discretion under those rules, pay due regard to such figures of the dealer's turnover for the three years immediately preceding as may be available to him.

24. If the Assessing-authority finds it impracticable to make a proper check of the returns furnished by any dealer under rule 20 or rule 21 he may for reasons to be recorded in writing direct such dealer to furnish the returns at such lesser intervals as he may consider necessary for the purpose.

25. Every dealer, other than those whose return-periods have been fixed under rule 17, 18, 20 or 21, shall furnish a return in Form III for each month by such date within the following month as may be specified in his Certificate of Registration.

26. Any dealer who elects to pay tax in advance under rule 48 shall furnish returns in Form IIIA instead of in Form III, and in the case of such dealers all references to Form III in these rules shall be deemed to include Form IIIA.

27. (1) All returns in Form III which are required to be furnished under these rules shall be signed by the dealer or by some responsible person on his behalf, and shall be sent to the appropriate Commercial Tax Officer.

(2) Returns furnished by any dealer for whom the Commercial Tax Officer is not the Assessing-authority shall be scrutinized by the Commercial Tax Officer and forwarded to the Assistant Commissioner as soon as possible together with such remarks, if any, as the Commercial Tax Officer may think fit to make.

28. If any registered dealer shows to the satisfaction of the Commissioner that no sales made by him are liable to tax under the Act and makes an application in this behalf, the Commissioner may direct that it shall not be necessary for such dealer to furnish any return in Form III and may grant the dealer a certificate in Form IV.

29. (1) A certificate granted to any dealer under rule 28 shall be valid till the end of the year of issue and thereafter may be renewed annually for one year at a time upon receipt of an application from the dealer accompanied by an affidavit that the business of the dealer continues to be such that no sales effected by him are liable to tax under the Act.

(2) Applications for renewal under sub-rule (1) should be made before the date when the certificate will expire, and applications which are received after such date are liable to be rejected.

(3) Applications for the issue or renewal of certificates in Form IV shall be made to the appropriate Commercial Tax Officer, and particulars of all such applications shall be entered in Register XIX.

Payment of tax.

30. If in the opinion of the Commissioner the annual tax payable by any dealer for whom annual return-periods have been prescribed is not likely to exceed Rs. 500, such dealer shall pay tax annually before furnishing the return in Form III.

31. Every dealer other than a dealer referred to in rule 30 for whom annual return-periods are prescribed and every dealer for whom half-yearly return-periods are prescribed shall pay tax quarterly in the manner prescribed in sub-rules 32 to 35 (inclusive).

32. The Commercial Tax Officer shall estimate the amount of tax payable by the dealer for the whole year, and shall communicate the same to the dealer.

33. (1) Within ten days from the expiry of any quarter for which no return in Form III is required to be furnished the dealer shall pay one-fourth of the amount estimated under rule 32; and

(2) Before furnishing the return in Form III he shall pay such further amount as will make the sum of his tax payments for the whole return-period equal to the amount which is shown in the return to be payable for such period, whether this sum is greater or less than the amount estimated under rule 32.

The estimate under rule 32 shall be communicated to the dealer by a notice in Form V not less than fifteen days before the expiry of the first quarter of the year to which it relates.

35. An estimate shall not be changed during a year, and shall remain in force until a fresh estimate is communicated in the manner provided in rule 34.

36. Every dealer for whom quarterly returns have been prescribed shall pay the tax due for any quarter before furnishing the return in Form III for that quarter.

37. Every dealer for whom monthly returns are prescribed will pay tax monthly before furnishing the return in Form III for that month.

38. (1) Every dealer shall pay the tax and any penalty which may have been imposed upon him direct into the appropriate Government Treasury. No payment of any tax or penalty shall be accepted at the office of the Commissioner or of any Assistant Commissioner or any Commercial Tax Officer.

(2) Challans for the purpose of making payment shall be obtainable at any Government Treasury or at the office of any Commercial Tax Officer.

(3) Challans shall be filled up in triplicate. One copy of such challan shall be returned by the Treasury, and the other two copies shall be returned to the dealer, duly signed, as proof of payment.

39. Every Assessing-authority shall maintain Registers XIII, XIV and/or XV, as may be required, in which he shall record the receipt of every challan produced in accordance with rule 43 or rule 44, in proof of payment of tax by any dealer for whom he is the Assessing-authority.

40. Payments by any dealer who is to pay tax annually shall be noted in Register XIII.

41. Payments by any dealer who is to pay tax quarterly shall be noted in Register XIV which shall be kept in three sections:—

XIVA for dealers who furnish annual returns;

XIVB for dealers who furnish half-yearly returns;

XIVC for dealers who furnish quarterly returns.

42. Payments by dealers who are to pay monthly shall be noted in Register XV.

43. Every dealer referred to in rules 30, 36 and 37 shall attach one copy of the receipted challan to the return in Form III when presenting the return to the Commercial Tax Officer.

44. Every dealer referred to in rule 31—

(a) shall send to the appropriate Commercial Tax Officer the receipted challans relating to payments made in accordance with sub-rule (1) of rule 33 within fifteen days of the expiry of the quarter for which the payment is made; and

(b) shall attach to the return in Form III the receipted challan in respect of the payment referred to in sub-rule (2) of rule 33.

45. The Commercial Tax Officer shall forward to the Assistant Commissioner all challans which are received from any dealer for whom the Commercial Tax Officer is not the Assessing-authority.

46. Every registered dealer who does not elect to pay his tax in advance under rule 48 may deduct from his gross turnover of the first year during which he is liable to pay tax such sum as is shown to the satisfaction of the Assessing-authority to have been due to the dealer on the date on which he became liable to tax under sub-section (1) or (2) of section 4 or under sub-section (3) of section 8, on account of sales of goods effected on or before such date.

47. (1) Every registered dealer, whether or not paying tax in advance under rule 48, shall report to the appropriate Commercial Tax Officer, within

one month from the date on which the dealer becomes liable to tax, the amount which is due to him on such date on account of sales of goods effected by contracts entered into before such date.

(2) The Commercial Tax Officer shall forward to the Assistant Commissioner any claim for deduction which is made under rule 46 by any dealer for whom the Commercial Tax Officer is not the Assessing-authority.

48. (1) If any dealer so prefers he may, with the permission of the Commissioner, pay in advance the tax which shall be leviable upon his taxable turnover.

(2) The amount of tax which may be paid in advance under sub-rule (1) in respect of any given return-period shall be calculated on the basis of the sales effected or contracts entered into during such period.

(3) Any dealer who pays tax in advance under sub-rule (1) may obtain refund of any amount of tax which has already been paid in respect of any sale-price or part of a sale-price which is subsequently certified by a Registered Accountant to have become irrecoverable and to have been written off as a bad debt.

Assessment to tax and/or penalty under section 11.

49. When it appears to an Assessing-authority to be necessary to make an assessment under section 11 in respect of any dealer he shall serve a notice in Form VI upon him setting forth—

(a) the amount of tax or additional tax, as the case may be, which such dealer is required to pay;

(b) the return-period or periods in respect of which such tax is payable; and

(c) the grounds upon which the demand is made; and he shall fix a date not less than fifteen days after the date of the service of the notice, for considering any objection which the dealer may wish to prefer.

50. If the Assessing-authority is an Assistant Commissioner he may, with the consent of the dealer, depute a Commercial Tax Officer to hear the dealer's objection and to record any evidence brought in support thereof.

51. A Commercial Tax Officer deputed under rule 50 shall send to the Assistant Commissioner by such date as the latter may direct—

(i) a précis of the points argued in support of the dealer's objection;

(ii) a record of any evidence taken in this behalf; and

(iii) if so directed by the Assistant Commissioner, his opinion upon the contention of the dealer and upon the facts of the case.

52. Every Assessing-authority shall maintain a register in Form XVI, in which he shall enter the details of each case instituted under rule 49.

53. A dealer who has been served with a notice under rule 49 may prefer any objection personally, or through an agent, or he may send it in writing.

54. After considering any objection made by the dealer and after considering any evidence produced in support thereof the Assessing-

authority shall assess the amount of tax (if any) and penalty (if any) to be paid by the dealer, and shall briefly but clearly record the reasons on which he bases his order.

55. (1) If any sum is payable by the dealer under rule 54 the Assessing-authority shall serve the notice in Form VII upon him specifying the date, not less than thirty days after the service of the notice on which payment shall be made, and he shall also fix a date on which the dealer shall produce the receipted challan in proof of such payment.

(2) When the challan is produced, the Assessing-authority shall make the necessary entries in the appropriate columns of Register XVII.

56. If on the date fixed under rule 55 the defaulting dealer has not paid the sum assessed or such instalment thereof as may be due, the Assessing-authority shall apply to the Collector of the area in which is located the dealer's office or head office, as the case may be, for recovery of the whole amount of tax and/or penalty remaining unpaid as an arrear of land-revenue.

57. (1) After taking the necessary action the Collector shall report to the Assessing-authority what amount, if any, has been recovered and the date on which recovery has been made.

(2) On receipt of the Collector's report the Assessing-authority shall make the necessary entries in the appropriate columns of Register XVII.

58. (1) All the papers relevant to the making of any assessment in respect of any particular dealer shall be kept together and shall form an assessment case record.

(2) Assessment case records shall be preserved for twelve years.

Refund of excess tax paid.

59. An application from a dealer for a refund of excess tax paid shall be made to the appropriate Commercial Tax Officer and shall clearly but briefly specify the grounds upon which the refund is claimed.

60. When the Commercial Tax Officer is satisfied that a refund is due to any dealer he shall, except as provided in rule 62, submit the application together with his opinion thereon to the Assistant Commissioner for orders.

61. Within thirty days from the date of submission of the application under rule 60 the Assistant Commissioner shall record his order in writing and shall communicate it to the Commercial Tax Officer.

62. Any Commercial Tax Officer stationed in areas outside Calcutta may sanction the refund of any amount of excess tax paid not exceeding fifty rupees without reference to the Assistant Commissioner.

63. When an order for a refund has been passed under rule 61 or rule 62 the Commercial Tax Officer shall, if the dealer desires payment in cash, issue a Refund Payment Order (Cash) and shall make it over to the dealer for encashment at the appropriate Government Treasury.

64. If the dealer desires payment by adjustment against any amount subsequently payable by him the Commercial Tax Officer shall issue a Refund Adjustment Order authorising the dealer to deduct the sum to be refunded from the amount payable in respect of the next return.

period following the sanctioning of the refund, or from the next instalment payable under sub-rule (1) of rule 33.

65. In support of any claim for deduction according to rule 64 the dealer shall attach the refund adjustment order to the next return in Form III to be furnished by him or to the next receipted challan furnished under clause (a) of rule 44.

66. After allowing such deduction the Commercial Tax Officer shall cause the Refund Adjustment Order to be cancelled.

67. The Commercial Tax Officer shall enter in Register XVIII particulars of all applications for refund and of the orders passed thereon.

Inspection of accounts, etc.

68. In requiring the production by any dealer of his accounts, registers, documents or stocks of goods strict regard shall be had to the necessity of not disturbing the business of the dealer or the work of his staff any more than is necessary for the purpose of ascertaining the required information.

69. Unless the inspecting-officer in his discretion deems it necessary to make a surprise visit, he shall give reasonable notice in writing to the dealer of his intention to inspect the accounts, registers, documents or stocks of goods of such dealer and in fixing the date, time and place for the purpose, he shall as far as possible have regard to the convenience of the dealer; ordinarily he shall make such inspection at the premises of the dealer and he shall not require the dealer to produce his accounts, registers or documents at his office except for urgent reasons and in the public interest.

70. If the Commercial Tax Officer seizes any books of accounts, registers or documents, under section 14 he shall not retain them beyond seven days without written sanction of the Assistant Commissioner. No inspecting-officer shall retain such books for more than twenty-one days without the sanction of the Commissioner.

Delegation of Commissioner's powers.

71. The Commissioner shall not delegate to any officer appointed to assist him any powers other than those enumerated below in respect of the sections mentioned, nor shall he delegate any power specified in column 3 to any officer below the rank specified in the corresponding entry in column 4:—

Serial No.	Section.	Description of power.	Designation of officer.
1	2	3	4
1	7 and 8	To register a dealer	Commercial Tax Officer.
2	7 and 8	To amend a certificate of registration	Commercial Tax Officer.
3	7 and 8	To cancel registration	Commercial Tax Officer.
4	10	To require an unregistered dealer to furnish returns	Assistant Commissioner.
5	11	To make an assessment of tax or penalty, or to fix a date for payment or to extend a date for payment of such tax or penalty—	

Serial No.	Section	Description of power.	Designation of officer.
1	2	3	4
		(a) in respect of a dealer whose gross turnover of the previous year exceeds Rs. 15 lakhs or whose taxable turnover of the previous year exceeds Rs. 3 lakhs	... Assistant Commissioner.
		(b) in respect of any other dealer	... Commercial Tax Officer.
6	12	... To sanction refund of excess tax—	
		(a) in case of a sum not exceeding Rs. 50 to be refunded to a dealer registered outside Calcutta	... Commercial Tax Officer.
		(b) in any other case	... Assistant Commissioner.
7	14	... To require a registered dealer to keep prescribed accounts...	Assistant Commissioner.
8	14	... To require production of the accounts, registers or documents of any dealer	... The officer empowered to assess such dealer under section 11.
9	14	... To inspect the accounts, registers or documents of a dealer	... Ditto.
10	...	... To enter and search any place of business of any dealer	... Ditto.
11	14	... To seize accounts, registers or documents of any	... Ditto.
		(An Assistant Commissioner may by a written order specially authorise a Commercial Tax Officer outside Calcutta to exercise the powers under items 8, 9, 10 or 11 in respect of any particular dealer)	
12	18	... To revise an order passed by a Commercial Tax Officer	... Assistant Commissioner.

Information to be furnished under section 16.

72. (1) Any registered dealer who does any of the acts referred to in clauses (a), (b) or (c) of section 16 shall inform the appropriate Commercial Tax Officer, within fourteen days of doing the act which is required to be reported.

(2) If the information referred to in sub-rule (1) relates to a branch of any business located outside the jurisdiction of the Commercial Tax Officer a copy of the information and of any orders passed thereon shall be forwarded to the Commercial Tax Officer within whose jurisdiction the branch is situated.

73. When any registered dealer dies his legal representative shall inform the appropriate Commercial Tax Officer within thirty days from the death of the dealer.

Appeals, Revision and Review.

74. An appeal against an order of assessment passed by a Commercial Tax Officer shall lie to the Assistant Commissioner and an appeal against an order of assessment passed by an Assistant Commissioner shall lie to the Commissioner. An appeal against an order of assessment passed by the Commissioner shall lie to the Board of Revenue.

75. A memorandum of appeal may be presented to the Appellate Officer by the appellant or by an agent duly authorised by him, or it may be sent to the Appellate Officer by post.

76. The memorandum of appeal—

(i) shall contain the following particulars:—

- (a) the date of the order appealed against;
- (b) the name and designation of the officer who passed the order;
- (c) the grounds of appeal briefly but clearly set out;

(ii) shall be accompanied by a certified copy of the order appealed against;

(iii) shall be endorsed by the appellant or by an agent authorised in writing in this behalf by the appellant, as follows:—

(a) that all tax admitted by him to be due up to the date of the appeal has been paid; and

(b) that to the best of his knowledge and belief the facts set out in the memorandum are true;

(iv) shall be signed by the appellant or by an agent authorised in writing in this behalf by the appellant and shall be accompanied by the fee prescribed in rule 85.

77. If the appellant fails to comply with the requirements either of clause (iii) or (iv) of rule 76 the appeal shall be summarily rejected, and it may be so rejected if he fails to comply with the requirements of either clause (i) or (ii) of that rule.

78. If the Appellate Officer does not reject the appeal summarily he shall fix a date for hearing the appellant or his agent.

79. Before any person empowered under section 20 passes any order in appeal, revision or review likely to affect any person adversely he shall send to such person a notice in Form IX (unless such person is the appellant or applicant for revision or review, as the case may be), fixing a place and time, ordinarily not earlier than fifteen days for bearing any representation which such person may wish to make.

80. (1) An application for revision or review shall contain such of the particulars which are specified in rule 76 as may be appropriate.

(2) Save with the previous sanction of the Commissioner no order shall be revised or reviewed more than three months after the passing of the order which it is sought to revise or review.

81. (1) When the Commissioner or any other Officer reviews any order under sub-section (4) of section 20 he shall record his reasons in writing.

(2) When any Commercial Tax Officer reviews any order he shall send a copy of the order and of the statement of reasons to the Assistant Commissioner.

82. No officer below the rank of Commissioner shall review any order which has been passed by any of his predecessors-in-office. If it is considered necessary to modify any such order application for revision is to be made to the next higher authority.

83. A copy of any order passed upon any appeal or application for revision shall be sent to the officer whose order forms the subject matter of the appeal or revision proceedings.

Service of notices.

84. (1) Notices under sub-section (2) of section 10, sub-section (3) of section 11, section 13 or sub-section (5) of section 20, or under rule 69 may be served by any of the following methods:—

- (i) personally upon the addressee, if present;
- (ii) by messenger;
- (iii) by post.

(2) When notice is made by post, notices shall ordinarily in the first instance be sent by ordinary post. If the notice is disregarded and any penal action is contemplated, a second notice shall be issued by registered post with acknowledgment due.

Fees.

85. The following fees shall be payable:—

- (i) upon a memorandum of appeal against, or upon an application for revision or review of, an order of assessment

Five per cent of the amount of tax in dispute (to the nearest rupee, subject to a minimum of one rupee and to a maximum of one hundred rupees).

- (ii) upon an application for revision or review of any other order or upon any other miscellaneous application or petition for relief

Re 1.

Explanation.—In this rule "the amount of tax in dispute" means the difference between the amount of tax demanded and the amount admitted by the dealer to be payable.

86. No fee shall be payable in respect of any objection, written or verbal, made in reply to a notice in Form VI under section 11, nor in respect of any spontaneous application which asks only for information or for a decision upon any of the matters referred to in section 18 and which does not seek any specific relief.

87. All fees payable under the Act or the Rules shall be paid in court-fee stamps; no fees shall be payable in cash.

Payment of composition money.

88. (1) When the Commissioner accepts under section 23 any sum from any dealer by way of composition of any offence he shall issue an order in Form X directing the officer in charge of the appropriate Government Treasury to receive on his behalf the sum specified in the order, and he shall make the order over to the dealer for presentation at the Treasury at the time of payment, and shall send a copy of the order to the officer in charge of the Treasury.

(2) The Commissioner shall also fix a date on which the dealer shall produce before such authority as he may direct a receipted challan in proof of payment.

[For Forms see pages 1999 to 2030 of Part I of the *Calcutta Gazette*, 1941. *Editor*.]

No. 2006F.—13th August 1941.—In exercise of the power conferred by sub-section (1) of section 4 of the **Bengal Finance (Sales Tax) Act, 1941** (Bengal Act VI of 1941), the Governor is pleased to appoint the 30th September 1941 as the date with effect from which every dealer whose gross turnover during the year immediately preceding the 1st July 1941 exceeded the taxable quantum, shall be liable to pay tax on all sales effected on or after the 1st October 1941.

Published in the "*Calcutta Gazette*", Part I, dated the 28th August 1941.

JUDICIAL AND LEGISLATIVE DEPARTMENTS.

Mymensingh—No. 2919J.—21st August 1941.—In exercise of the power conferred by sub-section (1) of section 92 of the **Government of India Act, 1935**, the Governor is pleased to direct that the Bengal Non-Agricultural Tenancy (Temporary Provisions) Act, 1940 (Bengal Act IX of 1940), shall apply to the partially excluded areas of the Mymensingh district, subject to the following modification, namely:—

For sub-section (3) of section 1 of the said Act, the following sub-section shall be substituted, namely:—

"(3) It shall come into force in the partially excluded areas of the Mymensingh district, on the 15th August 1941, and shall continue in force therein for so long as it continues in force elsewhere in Bengal."

FINANCE DEPARTMENT.

No. 1158L.S.-G.—25th August 1941.—In exercise of the power conferred by sub-sections (1) and (2) of section 5 of the **Bengal Local Self-Government Associations (Recognition) Act, 1936** (Bengal Act XVI of 1936), the Governor is pleased to make the following amendment in the rules published with the notification No. 1254 L.S.-G., dated the 9th March 1937, as subsequently amended:—

Amendment.

After rule 1 of the said rules insert the following as rule 1A:—

"1A. A local authority mentioned in rule 1 may, subject to the conditions specified in provisos (i) and (ii) to that rule, also pay a contribution from its fund towards non-recurring expenditure incurred by a recognised association:

Provided that no such contribution shall be paid by the Corporation of Calcutta, the district boards and the Commissioners of municipalities, and the union boards without the previous sanction of the Provincial Government, the Commissioners of Divisions and the District Magistrates respectively."

DEPARTMENT OF COMMUNICATIONS AND

WORKS (COMMUNICATIONS AND BUILDINGS).

No. 111R.—21st August 1941.—In exercise of the power conferred by sub-section (1) of section 92 of the **Government of India Act, 1935**, the Governor is pleased to direct that the Indian Railways (Amendment) Act, 1941 (VI of 1941), shall apply to the Darjeeling district and to the

partially excluded areas of the Mymensingh district with effect from the date of publication of the notification in the *Calcutta Gazette*.

Published in the "*Calcutta Gazette*", Part I, dated the 4th September 1941.

DEPARTMENT OF AGRICULTURE AND INDUSTRIES.

Mymensingh.—No. 2653.—1st September 1941.—In exercise of the power conferred by sub-section (1) of section 92 of the Government of India Act, 1935, the Governor is pleased to direct that the Bengal Water-Hyacinth (Amendment) Act, 1941 (Bengal Act IV of 1941), shall apply to the partially excluded areas of the Mymensingh district with effect from the date of publication of this notification in the *Calcutta Gazette*.

Published in the "*Calcutta Gazette*", Part I, dated the 11th September 1941.

HOME DEPARTMENT.

No. 1442A R.—4th September 1941.—The following notification by the Secretary to the Governor of Bengal is hereby published for general information:—

"Notification No. 140S., dated the 1st September 1941.—In His Majesty's name, His Excellency the Governor has assented to the Eastern Frontier Rifles (Bengal Battalion Amendment) Bill, 1941.

M. O. CARTER,

Secretary to the Governor."

CO-OPERATIVE CREDIT AND RURAL INDEBTEDNESS

DEPARTMENT.

No. 2273R.I.—4th September 1941.—In exercise of the powers conferred by section 55 of the Bengal Agricultural Debtors Act, 1936 (Bengal Act VII of 1936) the Governor is pleased to make the following amendments in the Bengal Agricultural Debtors Rules, 1936, published with notification No. 9187 L. R., dated the 26th June 1936, as subsequently amended, namely:—

For rules 54A and 54B the following rules shall substituted, namely:—

"Settlement of an insolvent debtor's debts under section 22 (1).

54A. If the annual surplus income of a debtor is above 1/30th of the amount which in the opinion of the Board would be a fair and reasonable offer for settlement of his debts under section 19, but is too small to allow of the repayment of his debt (sum total of all his debts) within twenty years if they are so settled, such debtor may, if otherwise suitable, be dealt with under section 22 (1)(a). The order of the Board shall, in that case, be embodied in an award in Form XIII.

54B. If there is no annual surplus income or if the annual surplus income of a debtor is below 1/30th of the amount which in the opinion of the Board would be a fair and reasonable offer for settlement of his debts under section 19, such debtor may, if otherwise suitable, be dealt with under section 22(1) (b). The order of the Board shall in that case be embodied in an award in Form XIV".

Published in the "*Calcutta Gazette*", Part I, dated the 2nd October 1941.

CO-OPERATIVE CREDIT AND RURAL INDEBTEDNESS

DEPARTMENT.

No. 2402R.I.—18th September 1941.—In exercise of the powers conferred by section 55 of the Bengal Agricultural Debtors Act, 1936 (Bengal Act VII of 1936), the Governor is pleased to make the following amendments in the Bengal Agricultural Debtors Rules, 1936, published

with notification No. 9187 L.R., dated the 26th June 1936, as subsequently amended, namely:—

In the Schedule to rule 136 of the said rules, for item 8(d) insert the following:—

Fees.	Amount	By whom payable.
8(d) dismissal under section 13(3) or section 17 of an application under section 8.	Twelve annas ...	Appellant.

No. 1411 R.I.—19th September 1941.—In exercise of the powers conferred by section 55 of the **Bengal Agricultural Debtors Act, 1935** (Bengal Act VII of 1935), the Governor is pleased to make the following amendments in the Bengal Agricultural Debtors Rules, 1935, published with notification No. 9187 L. R., dated the 26th June 1936 as subsequently amended, namely:—

(1) For rule 127 of the said rules substitute the following, namely:—

"127. A monthly progress return in Form XXVII shall be submitted by all Boards to the authority and by the date specified in the said form for transmission through the Subdivisional Officer and the Collector of the district concerned to the Provincial Government and the Commissioner".

(2) In rule 131 of the said rules after the word "submit" insert the words and figures "in form XXVIII".

(3) After form XXVI appended to the said rules insert the following form:—

[For Form XXVII see pages 2392-2393 of Part I of the *Calcutta Gazette*, 1941. *Editor*.]

(4) For form XXVIII appended to the said rules, substitute the following form:—

[For Form XXVIII see pages 2394-2395 of Part I of the *Calcutta Gazette*, 1941. *Editor*.]

The Mymensingh Partially Excluded Areas Tenancy (Second Amendment) Regulation, 1941.

The following Regulation made by the Governor under sub-section (2) of section 92 of the Government of India Act, 1935, has been assented to by the Governor-General [Vide Notification No. 47 T. L., dated the 7th October 1941, published in the *Calcutta Gazette*, Part I, dated the 9th October 1941.]

Bengal Regulation No. III of 1941.

[Assent of the Governor-General was first published in the *Calcutta Gazette* of the 9th October 1941.]

A Regulation further to amend the Mymensingh Partially Excluded Areas Tenancy Regulation, 1940, for certain purposes.

WHEREAS it is expedient to amend the Mymensingh Partially Excluded Areas Tenancy Regulation, 1941, for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. **Short title.**—This Regulation may be called the Mymensingh Partially Excluded Areas Tenancy (Second Amendment) Regulation, 1941.

2. *Insertion of new sections 6A and 6B in Bengal Regulation I of 1940.*—After section 6 of the Mymensingh Partially Excluded Areas Tenancy Regulation, 1940 (hereinafter referred to as the said Regulation) the following sections shall be inserted, namely:—

6A. *Suits and proceedings requiring determination if a person is a tenant.*—Notwithstanding anything contained in any other law for the time being in force or in any contract between the parties—

(a) no Civil Court shall, until the expiration of four months after the final publication of the record-of-rights prepared in respect of any land under Chapter X of the Bengal Tenancy Act, 1885, entertain any suit or application in which the question of whether or not any party to such suit or application is a tenant in respect of such land is directly or indirectly in issue between the parties to such suit or application, and

(b) every such suit or application pending in a Civil Court on the date of commencement of the Mymensingh Partially Excluded Areas Tenancy (Second Amendment) Regulation, 1941, shall be stayed until the expiration of four months after the final publication of such record-of-rights.

6B. *Setting aside of certain decrees and orders.*—If in any decree or order passed on or after the date of commencement of this Regulation and before the date of commencement of the Mymensingh Partially Excluded Areas Tenancy (Second Amendment) Regulation, 1941, by any Civil Court in any suit or on any application it has been held that any person is not a tenant in respect of any land, any party to such suit or proceeding who is affected by such decision may, within four months from the date of commencement of the Mymensingh Partially Excluded Areas Tenancy (Second Amendment) Regulation, 1941, and without payment of any court-fee under the Court-fees Act, 1870, apply to the Court which passed the decree or order to have such decree or order set aside, and such Court, if satisfied that the decree or order was passed within the period aforesaid, shall set aside the decree or order and restore the suit or application and stay further proceedings in respect of such suit or application until expiration of four months after the final publication of the record-of-rights relating to such land."

3. *Addition of new section 9.*—After section 8 of the said Regulation the following section shall be added, namely:—

"9. *Saving of limitation.*—In computing the period provided by any law for the time being in force for the institution or filing of a suit or application to which the provisions of clause (a) of section 6A are applicable, the period from the date of commencement of the Mymensingh Partially Excluded Areas Tenancy (Second Amendment) Regulation, 1941, to the date of expiration of four months after the final publication of the record-of-rights referred to in the said section shall be excluded."

Published in the *Calcutta Gazette*, Part I, dated the 9th October 1941,
REVENUE DEPARTMENT.

No. 9350 L.R.—6th October 1941—In exercise of the power conferred by section 9 of the Bengal Finance Act, 1939 (Bengal Act IX of 1939), the Governor is pleased to make the following amendment in the Bengal Professions, Trades, Callings and Employments Taxation Rules, 1939, published under notification No. 11104 L.R., dated the 14th October 1939, at pages 2733-36 in Part I of the *Calcutta Gazette*, of the 19th October 1939, as subsequently amended, namely:—

Amendment.

After the proviso to clause (a) of sub-rule (2) of rule 7 of the said rules,

the following further proviso shall be inserted :—

"Provided further that instalments extending beyond the financial year ending on the thirty-first day of March 1941 but not exceeding three in number may be allowed by the Assessing Officer for the payment of the tax payable in respect of that financial year."

No. 9394 L.R.—6th October 1941.—His Excellency the Governor-General has assented to the **Mymensingh Partially Excluded Areas Tenancy (Second Amendment) Regulation, 1941**, made by His Excellency the Governor under sub-section (2) of section 92 of the Government of India Act, 1935.

Published in the "*Calcutta Gazette*", Part I, dated the 16th October 1941.
HOME DEPARTMENT.

No. 33A.R.D.—7th October 1941.—The following notification by the Secretary to the Governor of Bengal is hereby published for general information :—

"Notification No. 178S., dated the 6th October 1941.—His Majesty's name, His Excellency the Governor-General has assented to the **Bengal Court of Wards (Amendment) Bill, 1941**."

M. O. CARTER,
Secretary to the Governor.

Published in the "*Calcutta Gazette*", Part I, dated the 23rd October 1941.
HOME DEPARTMENT.

No. 63A.R.D.—8th October 1941.—The following notification by the Secretary to the Governor of Bengal is hereby published for general information :—

"Notification No. 195S., dated the 15th October 1941.—In His Majesty's name, His Excellency the Governor has assented to the **Bengal Patni Taluks Regulation (Amendment) Bill, 1941**."

M. O. CARTER,
Secretary to the Governor.

Darjeeling-Mymensingh.—No. 85P.L.D.—11th October 1941.—In exercise of the power conferred by sub-section (1) of section 92 of the Government of India Act, 1935, the Governor is pleased to direct that the **Eastern Frontier Rifles (Bengal Battalion Amendment) Act, 1941** (Bengal Act VII of 1941), shall apply to the Darjeeling district and to the partially excluded areas of the Mymensingh district, with effect from the date of publication of this notification in the *Calcutta Gazette*.

REVENUE DEPARTMENT.

No. 9701 L.R.—15th October 1941.—In exercise of the power conferred by clause (d) of sub-section (2) of section 9 of the **Bengal Finance Act, 1939** (Bengal Act IX of 1939), the Governor is pleased to make the following amendment in the Bengal Professions, Trades, Callings and Employments Taxation Rules, 1939, published under notification No. 11104 L.R., dated the 14th October 1939, at pages 2733-36 in Part I of the *Calcutta Gazette* of the 19th October 1939, as subsequently amended, namely :—

Amendment.

After the proviso to sub-rule (1) of rule 11 of the said rules the following further proviso shall be inserted :—

"Provided further that for payments made prior to the first day of March 1941, the application for refund may be made within two years of such payment."